

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

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5 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

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7 VIRGINIA GAS AND OIL BOARD

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14 SEPTEMBER 15, 1998

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22 Reported by:
23 SONYA MICHELLE BROWN, Court Reporter
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4 BENNY WAMPLER: Good morning. My name is Benny
5 Wampler. I'm Deputy Director for the Virginia Department of
6 Mines, Minerals and Energy, and Chairman of the Gas and Oil
7 Board; and I'll ask the Board Members to introduce
8 themselves, starting with Mr. Gilliam.

9 RICHARD GILLIAM: Richard Gilliam, Coal Industry
10 Representative, Abingdon, Virginia.

11 MAX LEWIS: Max Lewis, from Buchanan County. I'm a
12 public member.

13 SANDRA RIGGS: I'm Sandra Riggs with the Office of
14 the Attorney General, here to advise the Board.

15 BILL HARRIS: And I'm Bill Harris, a public member
16 from Wise County.

17 TOM FULMER: Tom Fulmer, Department of Mines,
18 Minerals and Energy.

19 BENNY WAMPLER: Thank you. The first item on
20 today's agenda, the Board will receive a quarterly status
21 report from First Virginia Bank-Mountain Empire, as escrow
22 agents to the Board. We'd ask the representatives to come
23 forward at this time, please. Introduce yourselves for the
24 record, please.

25 BILL KING: Good morning. I'm Bill King and this is
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1 Rob Martin with First Virginia Bank and, of course, we are
2 here as the escrow agent for the Board. We are passing out a
3 detailed asset holdings list of the account currently and
4 this is very current as of...let me see at the top there,
5 September the 11th.

6 The account last time was something...the balance
7 was just slightly under three point eight million. So, at
8 this point, we are a little over four point one. So, there
9 is some growth in that primarily by additions. But with all
10 of the market turmoil that we have seen, it is something that
11 actually the way this investment philosophy has...has been
12 set, you know, we are pretty much protected from...as a
13 matter of fact, with rates having dropped, the bond portion
14 of the portfolio has benefitted. And the thing that's been a
15 little bit unusual, but not all that much, the yield curve is
16 so flat that the short term rates really have not been
17 affected. Now, at some point...what I'm pointing to is that
18 very first portion of the portfolio. The short term
19 investment pool as a money market fund and roughly...in total
20 right now over...over sixty percent is in that fund. The
21 current yield is 5.6 percent and it has been in that range at
22 5.5 and 5.6 percent. And again, as I said, short term rates
23 have been very much unaffected. The longer term rates have

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1 dropped and, you know, we've seen...I can't quote a figure
2 probably, but somewhere at the beginning of the year, the
3 long term treasury bond was well over 6 percent and it's
4 now...it has hit 5.2 percent, in that range, in the last few
5 trading days. So, we have a situation where our money market
6 rates are more than our thirty year bond rates. It's not
7 unheard of, but it's not something we have seen for quite a
8 long time in the markets. But again, all of this having been
9 said, there's been no adverse affect and, as a matter of a
10 fact, we are well positioned. There is plenty of liquidity,
11 yet we have in the past, and up until probably just earlier
12 this year, maybe in the spring, have invested in treasuries
13 of government agency bonds with, you know, one...I think,
14 overall, one to three and half or four year maturity. Again,
15 those with the action of rates, you know, the market values
16 are up a little on those. I'm not any more concerned about
17 that than if things went the other way. Again, the strategy
18 is to have a little better yield than we can get in a money
19 market, if we can do that, on the bonds and hold them to
20 maturity so that at maturity we are going get par. We are
21 not really counting on selling these at...while the market is
22 high because we have reinvested the money at lower rates.
23 So, there is...really, this market fluctuation has very

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1 little affect on us.

2 Again, the...right now, as you can see, the first
3 column being market value and the second being the costs
4 basis, there's not a huge...unrealized gain is in that second
5 to last column. So, you can see them. We are not talking
6 about a huge amount, but the account is doing very well. And
7 then you can see the overall current...and this is gross
8 yield, the 5.7 percent, which, you know, is a pretty good
9 rate right now for short term money. I don't know if there
10 are any other issues or anything. Rob, do you have---?

11 ROB MARTIN: No, sir.

12 BENNY WAMPLER: Questions from members of the Board
13 of any of the information that's been provided by Mr. King?

14 BILL KING: I guess, I can add, too, I know you...it
15 was mentioned earlier that the Board members receive a copy
16 of our regular statement.

17 BENNY WAMPLER: Yes.

18 BILL KING: And as far as we are concerned, you
19 know, if you look at that and have a question at the time,
20 don't hesitate to call Rob or I. It is harder maybe to
21 remember that several months later or some we are here,
22 so---.

23 BENNY WAMPLER: Well, I think we are starting to be

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1 in sync with how you are reporting and what we are seeing and
2 everything. So, we've been through the question and answer
3 before. I think we are getting pretty familiar with---.

4 BILL KING: Yeah.

5 BENNY WAMPLER: ---your reporting format.

6 BILL KING: Format changed a little bit, of course,
7 at the first of the year, but not...probably not too
8 drastically.

9 BENNY WAMPLER: Right. Does anyone have any
10 questions of these gentlemen?

11 JILL HARRISON: Mr. Chairman, I have a question. I
12 am Jill Harrison. I represent Hugh McRae Land Trust and
13 Garden Reality Corporation, and I have received, I guess, in
14 the past couple of weeks, the information that Miss Riggs
15 sent to me with regard to the amounts deposited by the
16 operator for certain units. And going through some
17 additional information I received yesterday, and also Miss
18 Davis called to check with the bank on deposits, I think
19 there is still a problem with the Northeast Longwall Ten
20 Unit, and I know that on the docket later today is the
21 addressing payment of escrow. So, I wanted to mention this
22 matter so that the bank could look into it before any
23 payments are made. But on the Northeast Longwall Ten, the

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1 amounts that are shown to be deposited by the operator are
2 three hundred fifty-nine thousand nine hundred ninety-one
3 dollars and sixty-four cents (\$359,991.64), and from the
4 amounts that was given to Miss Davis last Tuesday, I believe
5 it was, there was an amount held by the bank of one hundred
6 ninety-six thousand six hundred ninety-six dollars and nine
7 cents (\$196,696.09). This is the unit that the letter had
8 gone out some time ago because there was a problem with the
9 supplementary order and the bank paid the money back and I
10 believe that may be the difference, but out of that funds,
11 Garden Reality and Hugh McRae will be splitting around three
12 hundred thousand dollars (\$300,000). Obviously, that's more
13 than what's shown presently in that account. So, I think
14 that's one thing that we are going to have to figure out, if
15 the money was paid back and if it was, where it went, or the
16 bank may have never received the money back once it was
17 incorrectly paid out.

18 BENNY WAMPLER: Okay.

19 JILL HARRISON: I mean, I don't know what happened.
20 I just know the numbers that I have and that I was given,
21 and knowing that later today you may order the payment of
22 those funds, I think that's something that the Board should
23 be aware of.

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1 BENNY WAMPLER: Okay. Thank you.

2 JILL HARRISON: Thank you.

3 BENNY WAMPLER: Any questions of these gentlemen

4 from members of the Board?

5 (No audible response.)

6 BENNY WAMPLER: Thank you for your time. I

7 appreciate it very much.

8 BILL KING: Sure.

9 ROB MARTIN: Thank you.

10 BILL KING: Glad to be here.

11 BENNY WAMPLER: The next item on the agenda, the

12 Board will consider a petition from Pocahontas Gas

13 Partnership for modification of previously pooled coalbed

14 methane unit identified as BUNE 1 and previously pooled under

15 docket number GOB-91-11/19-0161. This is located in Buchanan

16 County. Our docket number today is GOB-91-11/19-0161-01,

17 continued from August. We'd ask the parties that wish to

18 address the Board in this matter to come forward at this

19 time, please.

20 MARK SWARTZ: Mark Swartz on behalf of Pocahontas

21 Gas Partnership.

22 (Leslie K. Arrington hands out an Exhibit.)

23 (Unidentified person from the audience): Excuse me.

24

1 What was that docket number, again?

2 BENNY WAMPLER: The docket number today is GOB-91-
3 11/19-0161-01.

4 (The Board members wait while Mark Swartz and
5 Leslie K. Arrington are getting organized.)

6 BENNY WAMPLER: The record will show there are not
7 others at this time, Mr. Swartz, if you want to proceed,
8 please.

9 MARK SWARTZ: Okay. This is an application to
10 modify a unit that was created back in 1991, and then
11 actually pooled the unit. It was...the unit was created on
12 the original docket, but I don't believe it was pooled. So,
13 we are trying to change the size and shape of the unit that
14 was previously...previously created by the Board and then
15 pool a fairly minor interest in that unit that we have been
16 unable to lease or acquire. The map that Mr. Arrington just
17 passed out will kind of focus you on the...I think on the
18 change in terms of the change or the shape of unit. The blue
19 line on the map was the original unit. The red outline is
20 the proposed reconfiguration of the unit. Essentially, it's
21 been reconfigured to follow the actual pattern of mining in
22 this area. The mine, which at the time the unit was created,
23 was more of an approximation. It was mine plans as opposed

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1 to actual mining. If you will look in this area, this
2 boundary...the blue and red line here actually butts up
3 against another sealed gob unit so that there is no gap in
4 terms of royalty or correlative rights payments. That line..
5 actually one unit abuts the other. The...and essentially,
6 the configuration at the top, as you can see we've...you
7 know, we've tried to follow configuration of mining. To
8 the...to the right hand side, there is active mining over
9 here. So, there is...there are no new...no previously
10 created sealed gob units over there. The mine is still
11 continuing to mine in that direction. So, that kind of
12 focuses you in terms of, you know, what is it we are asking
13 you to do in terms of changing the shape and size of this
14 unit; and then the second step is to pool some outstanding
15 interests in the unit. If I could have Mr. Arrington sworn,
16 we could start with the testimony.

17 (Witness is duly sworn.)

18 LESLIE K. ARRINGTON

19 having been duly sworn, was examined and testified as
20 follows:

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SWARTZ:

23 Q. State your name, please.

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1 A. Leslie K. Arrington.

2 Q. And who do you work for?

3 A. Consolidation Coal Company.

4 Q. Did you draft the application and the notice

5 and most of the exhibits here on this docket item today?

6 A. Yes, I did.

7 Q. Okay. Is this a two fold request, on the

8 one hand to modify a previously created sealed gob unit?

9 A. Yes, it is.

10 Q. And on the other hand to pool some

11 outstanding unleased interest in that unit?

12 A. Yes, it is.

13 Q. Okay. Who is the applicant?

14 A. Pocahontas Gas Partnership.

15 Q. And is Pocahontas Gas Partnership a Virginia

16 General Partnership?

17 A. Yes, it is.

18 Q. Are the two partners in that partnership

19 Conoco, Inc. and Consolidation Coal Company?

20 A. Yes, they...yes, they are.

21 Q. Is Pocahontas Gas Partnership authorized to

22 do business in Virginia, and does it have a blanket bond on

23 file, and is it registered with the DMME?

24

1 A. Yes, it is.

2 Q. Who is the applicant requesting be appointed
3 designated operator, if the unit is pooled?

4 A. Pocahontas Gas Partnership.

5 Q. Have...have...does the Notice and
6 exhibit...and exhibits set forth the names of all owners and
7 claimants within this proposed sealed gob unit area?

8 A. Yes, it does.

9 Q. And have we given Notice to people that we
10 have leases with?

11 A. Yes, we have.

12 Q. And that...would that be because most of our
13 leases do not allow the voluntary creation of the unit of
14 this size?

15 A. That's correct.

16 Q. So, we've given notice to our lessors in the
17 event they want to complain, they could be here today to
18 participate?

19 A. That's correct.

20 Q. And we've also given Notice to folks that we
21 do not have leases with?

22 A. That's correct.

23 Q. This matter was set on last month's docket?

24

1 A. Yes, it was.

2 Q. And we had to move for a continuance?

3 A. That's correct.

4 Q. What was the problem?

5 A. We had not given notice to one app...one

6 person in...within the unit.

7 Q. One company?

8 A. That's correct.

9 Q. And have you filed with the Board this

10 morning a proof of notice?

11 A. Yes, I have.

12 Q. And is that a Fed Ex statement?

13 A. Yes, it is.

14 Q. Indicating that Consol, Inc. shipped a Fed

15 Ex package to Pepsico of Norton, Inc. on the 13th of August,

16 1998?

17 A. Yes, it does.

18 Q. And that is was signed for by S. Fleming at

19 Pepsico's address on August 14th, 1998?

20 A. That is correct, it does.

21 Q. Okay. The respondents are, I take it,

22 listed in the revised exhibits?

23 A. Yes, they are.

24

1 Q. Okay. And the folks that you are seeking to
2 pool would be listed in revised exhibit B-3?

3 A. That's correct.

4 Q. And the lessors are listed in exhibit D?

5 A. That's correct, they are.

6 Q. Okay. And then the conflicting claims are
7 listed in exhibit...revised Exhibit E?

8 A. Correct.

9 Q. Do you wish to add any respondents today?

10 A. No.

11 Q. Do you wish to dismiss any?

12 A. None.

13 Q. Have you filed your affidavit of due
14 diligence?

15 A. Yes, we have.

16 Q. And that's behind...what, tab eight?

17 A. Exhibit number eight.

18 Q. And have you filed proof of publication by
19 mailing independent of this Fed Ex recipient for Pepsico as
20 well?

21 A. That is correct.

22 Q. And that would be behind nine?

23 A. Exhibit number nine, yes.

24

1 Q. Okay. And that contains a list of when the
2 mail was sent and the status of---?
3 A. That...that's correct.
4 Q. Okay. And then behind that are the return
5 receipt cards?
6 A. That's correct.
7 Q. Was this Notice of Hearing published?
8 A. Yes, it was.
9 Q. When?
10 A. In the Bluefield Daily Telegraph on July
11 23rd, 1998.
12 Q. Have you filed any certification or proof of
13 publication?
14 A. Yes, again, at exhibit number nine.
15 Q. Okay. The very tail end of pages in exhibit
16 number nine is a copy of the publication from the paper and
17 the newspaper certification with regard to publication?
18 A. That's correct, it is.
19 Q. If you look at revised exhibit A, page two,
20 which is in the gray book behind tab two. Does that set
21 forth the interest of the applicant and the interest of folks
22 that have not leased?
23 A. That's correct, it does.

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1 Q. What is the interest of the applicant at
2 this point?

3 A. We control 100 percent of the coal for
4 coalbed methane and 99.34082 percent of the oil and gas
5 owners.

6 Q. Okay. What is the outstanding interest in
7 oil and gas?

8 A. 0.65918 percent.

9 Q. So, less than three quarters of one percent?

10 A. That's correct.

11 Q. And is that the interest you are seeking to
12 pool today?

13 A. Yes, it is.

14 Q. Okay. Does the exhibit AA-1 also show the
15 Oakwood units in little green lines?

16 A. Yes, it does.

17 Q. Okay. And the reason that this unit needs
18 to be created is that neither of the Oakwood I nor the
19 Oakwood II rules would apply to sealed gob production?

20 A. That's correct, they do not.

21 Q. But it does show this proposed modified unit
22 in relation to other units in the Oakwood Field?

23 A. Yes, it does.

24

1 Q. Okay. With regard to the area that you are
2 seeking to pool, is it all seams below the Tiller?
3 A. Yes, it is.
4 Q. And then the area would be...in the other
5 dimension would be the area outlined in red on exhibit AA-1?
6 A. That's correct.
7 Q. How many acres does that...this unit contain
8 as reconfigured?
9 A. One thousand four hundred eighty-three point
10 six seven (1,483.67) acres.
11 Q. With regard to the majority of the folks in
12 this unit that you have obtained leases from, could you
13 report to the Board what your lease terms have been?
14 A. In general, it's a one-eighth royalty, a
15 dollar per acre with a five year term.
16 Q. And that...and the dollar an acre rental is
17 payable until when?
18 A. Until production commences.
19 Q. Okay. Are the...does exhibit AA-1 show all
20 of the holes within the unit that could theoretically be used
21 to produce coalbed methane?
22 A. Yes...yes, it does. Several of those holes
23 at this...to date now have been plugged.
24

1 Q. How many wells do you propose to make
2 available for production out of the large number of holes
3 available?
4 A. Fourteen.
5 Q. Okay. And have you captured those costs in
6 any exhibit?
7 A. Yes, in exhibit C.
8 Q. As part of the original application?
9 A. Yes.
10 Q. Okay. And that is a...is that an average
11 cost per well of the fourteen wells?
12 A. Yes, it is.
13 Q. And what is the average cost?
14 A. The average cost is a hundred eighty-seven
15 thousand four hundred and thirty-six dollars and seventy
16 cents (\$187,436.70) to a total...an average depth of eighteen
17 hundred and fifty (1,850) feet.
18 Q. And then the cost that you are seeking to
19 allocate to produce this unit would be fourteen wells times
20 that average number?
21 A. Yes.
22 Q. So, from a participation standpoint that
23 would be the number that would be in play?
24

1 A. Yes, it would be.

2 Q. To the right of the map, is there an

3 ongoing...is there ongoing active mining?

4 A. Yes, there is.

5 Q. Okay. And this is the Buchanan Number One

6 Mine?

7 A. Yes, it is.

8 Q. So, immediately to the...there must be, I

9 assume, seals in place?

10 A. Yes, there is.

11 Q. And immediately to the...would it be to the

12 East?

13 A. Uh-huh. Yes.

14 Q. There is active ongoing mines?

15 A. Yes, it is.

16 BENNY WAMPLER: Are all fourteen of those wells

17 permitted?

18 A. Yes, they are.

19 BENNY WAMPLER: You are modifying the original

20 application by adding the additional wells?

21 A. Yes.

22 Q. In the revised exhibit B-3, which is behind

23 tab five---?

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1 A. Yes.

2 Q. ---have you listed the...or set forth the
3 interest in the unit of the parties that are being pooled, or
4 we are seeking to pool?

5 A. Yes, I have.

6 Q. And there are understanding interests in
7 three of the tracts?

8 A. Yes.

9 Q. And two of those outstanding interests are
10 the Commonwealth of Virginia?

11 A. That's correct, it is.

12 Q. Was that the result of condemnation of
13 roadways where they've got fee rather than surface, or do you
14 know?

15 A. Right off, I don't know.

16 Q. Okay. Usually it's roads.

17 A. Yes. It is a highway.

18 Q. Okay. Now, with regard to...and those
19 folks, their actual percentage interests is in the far right
20 hand column?

21 A. That's correct, it is.

22 Q. And from the stand point of what their
23 royalty allocation would be, that would be the figure
24

1 that...percentage that would be used?

2 A. Yes, it would be.

3 Q. And with regard to any participation option
4 that they might want to elect, or a carried interest option
5 that they might want to elect, that would be the percentage
6 that would be applied?

7 A. That's correct.

8 Q. Is it your opinion that this unit is a
9 reasonable proposal to develop the coalbed methane gas from
10 this sealed gob area?

11 A. Yes, it is.

12 Q. And does it make an effort to protect
13 correlative rights of adjacent lands and owners of royalty
14 interests on those lands?

15 A. Yes, it does.

16 Q. And in general, could you tell the Board
17 what you have tried to do in redesigning the unit?

18 A. Yes, we generally followed the boundary of
19 the mine with the exception of...at times, we did try to
20 match up to the eighty acre unit lines anytime that we could
21 possibly do that.

22 Q. Are you requesting that the order in this
23 instance be retroactive to a date?

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1 A. Yes, June 30th, 1998.

2 Q. Okay. And was that the date on which all of
3 the seals were completed?

4 A. Yes, it was.

5 Q. And have you been maintaining production
6 records since that date on a basis that would allow you to
7 allocate production back to that date on a retroactive basis?

8 A. Yes, we have.

9 Q. That's all I have.

10 BENNY WAMPLER: Were all of the wells permitted as
11 of that date?

12 A. Yes, they were.

13 BENNY WAMPLER: Any questions from members of the
14 Board?

15 SANDRA RIGGS: Has production been...royalties been
16 going into escrow since June, based on the old configuration?

17 A. No, we suspended that production payments to
18 match up to this June 30th date.

19 SANDRA RIGGS: Okay. So, there wouldn't have to be
20 any sorting out?

21 A. No, no.

22 SANDRA RIGGS: Probably, with respect to the escrow
23 agent, if we are going to reconfigure the unit, there would
24

1 be a new account established as of that date.

2 MARK SWARTZ: Well, we've been producing active gob.

3 CLAUDE MORGAN: There have been no payments under
4 the original sealed gob unit.

5 MARK SWARTZ: So, there was...the escrow agent
6 should not be holding any funds pertaining to this sealed gob
7 unit, correct?

8 CLAUDE MORGAN: Right. Uh-huh.

9 MARK SWARTZ: Okay. So, from an accounting
10 standpoint, your first question is, yeah, they've dealt with
11 that issue, but from an escrow standpoint, there may be funds
12 in escrow, but they would not pertain to this unit. They
13 would pertain to active gob production allocated on a
14 completely different basis.

15 SANDRA RIGGS: Okay.

16 BENNY WAMPLER: Tell me again about your south
17 configuration here.

18 A. We actually just matched...tried to match up
19 against what we already had units formed to is what we are
20 doing there, and then that's the other jagged portion of the
21 line that you are referring to, I believe.

22 BENNY WAMPLER: Right.

23 A. That's where the seals are.

24

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1 BENNY WAMPLER: Okay. Other questions of this
2 witness?
3 (No audible response.)
4 MARK SWARTZ: That's all I have.
5 BENNY WAMPLER: Anything further?
6 MARK SWARTZ: No.
7 BENNY WAMPLER: Do I have a motion?
8 (Tom Fulmer confers with Sandra Riggs privately.)
9 BENNY WAMPLER: Mr. Fulmer, do you have a question
10 or anything before we do this?
11 SANDRA RIGGS: The question dealt with the charging
12 of the wells off of the original pooling. What you are
13 saying is for new parties that are being pooled, they never
14 were given an opportunity to participate? So, the allocation
15 of the costs only applies to the newly pooled parties.
16 BENNY WAMPLER: That's correct.
17 SANDRA RIGGS: It has not being charged back to the
18 people who were originally pooled?
19 MARK SWARTZ: It's a completely new unit, I guess,
20 is the---.
21 SANDRA RIGGS: That's why I wondered if there didn't
22 need to be a new escrow account. But you are saying there is
23 no...there is no overlap of funds, so that's not necessary.
24

1 MARK SWARTZ: Well, there's going...well, there's
2 going to need to be an escrow account because there's an
3 exhibit E---.

4 A. Yeah.

5 MARK SWARTZ: ---because we've got some
6 conflicting---.

7 SANDRA RIGGS: Conflicting claims.

8 MARK SWARTZ: ---claims that we need to escrowed
9 for.

10 SANDRA RIGGS: Right.

11 MARK SWARTZ: But it would be essentially money into
12 a clean new account because it's a completely different---.

13 SANDRA RIGGS: Well---.

14 BENNY WAMPLER: Based on this.

15 MARK SWARTZ: ---unit.

16 SANDRA RIGGS: Okay. That's what I thought.

17 BENNY WAMPLER: Right.

18 SANDRA RIGGS: All right.

19 BENNY WAMPLER: Okay. Anything further? Do I have
20 a motion?

21 (No audible response.)

22 BILL HARRIS: Mr. Chairman, I move for approval of
23 the request.

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1 BENNY WAMPLER: I have a motion to approve. Second?
2 RICHARD GILLIAM: (Indicates that he seconds the
3 motion.)
4 BENNY WAMPLER: Okay. Any further discussion?
5 (No audible response.)
6 BENNY WAMPLER: All in favor, signify by saying yes.
7 (All members indicate in the affirmative.)
8 BENNY WAMPLER: Opposed say no.
9 (No audible response.)
10 BENNY WAMPLER: You have approval. Thank you.
11 MARK SWARTZ: Thank you.
12 BENNY WAMPLER: The next item on the agenda, the
13 Board on its own motion will consider further hearings on
14 unit NELW10, NELW9, SLW5, SLW7, SLW6, SLW8 and Unit R-25, for
15 amending supplemental orders and disbursement of funds. We
16 will call you back in a minute. You get a chance to move
17 around a little.
18 MARK SWARTZ: I figured.
19 BENNY WAMPLER: Good morning.
20 JILL HARRISON: Good morning.
21 BENNY WAMPLER: How are you today?
22 JILL HARRISON: I'm fine. How are you?
23 BENNY WAMPLER: Doing fine. Thank you.
24

1 JILL HARRISON: Good.

2 BENNY WAMPLER: The floor is yours.

3 JILL HARRISON: Well, since this was on the Board's

4 motion, I thought you would be the one doing the talking, Mr.

5 Wampler. But basically, we were provided with Miss

6 Riggs...with a copy of the accounting filed by the operator.

7 Our time, under our order, to file an objection or a

8 response did not run until today, but I wanted to have the

9 letter that's been provided to you in your hands. So, we

10 filed it yesterday afternoon and basically what I did was go

11 through the information in the accountings. I pulled out

12 according to those accountings, the dollar figures that were

13 allocated to the tracts and the units in which Hugh

14 McRae/Garden Reality and...I mean, Hugh McRae Land Trust and

15 Garden Reality Corporation formerly had conflicting interest,

16 but no longer do, under their contractual agreement. I've

17 indicated in the letter that if those are the amounts that

18 have been paid and they've been allocated to our estate

19 then...I mean, to our interest in the account, then we would

20 like the money that's attributable to our interest in the

21 accounts.

22 BENNY WAMPLER: I guess, you know, when this all

23 began, it was represented to the Board that we had an

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1 agreement among all parties for an amount to be disbursed and
2 the Board has, I think, continued this today to allow some of
3 that to occur and, I guess, what we need, I think, are all
4 the parties represented here and do the parties represent to
5 the Board that they have an agreement of all of the funds for
6 disbursement?

7 JILL HARRISON: Well, I can represent to you today
8 that I represent Hugh McRae Land Trust and Garden Reality
9 Corporation. They are the two contractual parties that are
10 required under the statute to reach an agreement, and after
11 that agreement is reached, under the statute, there is a
12 mandatory command to the Board to disburse the funds. So,
13 yes, I am saying that if the operator has said those are our
14 funds, then yes, we want the funds paid out under our
15 contractual agreement. I know that Mr. Swartz represents the
16 operator and had filed the accountings on behalf of the
17 operator with Miss Riggs.

18 MARK SWARTZ: I think we are getting a little bit of
19 reinventing history here. You know, the reason this has
20 taken forever, in addition to the fact that sometimes myself
21 and my clients would agree is slow, is that in the beginning
22 Garden Reality and Hugh McRae, on their petitions, indicated
23 that they were not in agreement with our numbers or would not
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1 sign off on our numbers. So, that caused us to embark on a
2 lengthy production of royalty check detail, boxes of records,
3 which, of course, were too voluminous. Nobody wanted to
4 spend any time with those. So, then ultimately, a summary on
5 a per tract basis, in terms of trying to provide a level of
6 information to Garden Reality, to Hugh McRae Land Trust, to
7 their counsel to...you know, whatever experts they might want
8 to employ, to look at that information and represent to the
9 Board that they were satisfied that the accounting was
10 complete, or that there were problems with the accounting in
11 terms of the amount of money deposited on a per tract basis.
12 And if there were problems, they needed to step up to the
13 plate and identify those problems so that the Board, before
14 it entered an order, could address them and that the parties
15 could address them.

16 Mr. Siegel who is a trustee of...for Hugh McRae
17 Land Trust called me last week, I've talked to him
18 infrequently, but on several occasion in the past, about this
19 process. I had discussion with him along the lines of what I
20 am suggesting to the Board this morning is that the folks
21 here involved in this really need to agree that the numbers
22 are right. I don't...I don't think...I would not want to be
23 in a position where the Board pays out money without some

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1 representation by the people receiving it that they are
2 satisfied they are getting the right amount, because if we
3 are going to have an argument or a fight, let's have it now
4 and let's address any legitimate concerns completely that the
5 folks who want to receive the money might have. You know,
6 and my clients have spent a lot of time and effort, I spent a
7 fair amount of time with them, trying to come back to the
8 Board with the information that I submitted to Mr. Wampler
9 and I'm sure has found its way to the Board on August 12th,
10 you know, and if there are legitimate concerns or questions
11 or problems, you know, let's deal with them. If not, I would
12 certainly...if Mr. Arrington has filed an affidavit along
13 with these materials and I did as well, encouraging the Board
14 to require the applicants here to sign off on the numbers, or
15 to complain about them in some specific way. So, that's...I
16 mean, I think that's sort of what started this adventure way
17 back when, and we all thought we had an agreement, and then
18 we started having, you know, concerns expressed by the
19 applicants that they didn't have an accounting. They didn't
20 have the information that they could make a judgments as to
21 whether or not they were getting an appropriate amount of
22 money. So, we come all this distance and now we are still
23 being told well, we are not going to sign off on anything.

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1 We will take the money, but you pay us at your risk. It's
2 kind of what I am hearing and, you know, if there are really
3 problems here, let's talk about them.

4 BENNY WAMPLER: Miss Harrison.

5 JILL HARRISON: I don't necessarily agree with Mr.
6 Swartz's characterization of the history, but I don't think
7 that's relevant at this point for the Board for us to rehash
8 that. What we were initially provided with was a one line
9 that said this is how much we have deposited. Obviously,
10 it's just like any checking account, you want to know what
11 was deposited, when it was deposited, how that information
12 was calculated. Well, Miss Riggs was provided with this
13 stack of information, which went to Mr. Mullins, which I have
14 now acquired and have gone through. It has an accounting
15 that is basically a royalty statement. There is information
16 in here about "value deductions", amounts that are taken from
17 the price of the gas. Obviously, Garden Reality and Hugh
18 McRae are not in a position to know what constitutes "value
19 deductions" or how those calculations were made.
20 Consequently, what they have had to do is rely on the
21 information provided in these reports. There is a fiduciary
22 relationship between the operator and the lessors. So, at
23 some point you have to trust the numbers that you've been

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1 given. Well, in this particular situation, for these
2 instances, that's what we have done. And I believe that my
3 letter states, you know, if they say these are the dollars
4 that are in there, this is what we want to be paid.

5

6 Now, there is ongoing litigation between the
7 operator and I know that Hugh McRae Land Trust is a party to
8 that. Garden Reality Corporation is not at this point. That
9 has to deal with costs taken out, but that's an entirely
10 separate issue. That litigation is not a part of what is
11 going on here today. Now, I believe...and I talked to Mr.
12 Siegel also after he talked to Mr. Swartz. It was his
13 understanding after talking to Mr. Swartz that what we had to
14 say basically was a confirmation, if you have deposited these
15 monies to our account, then you agree that they are there and
16 we want them; and that's what we've done based on Mr.
17 Siegel's understanding of his conversation with Mr. Swartz.

18 They are...it appears to me that statute is very
19 specific when it says that when the parties have reached an
20 agreement, that they are to pay the funds out. We have come
21 before the Board. We have had our contractual agreement. We
22 have put the evidence on. Now, we are at the point where the
23 operator has graciously provided to us information on which

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1 we can make some type of educative decision. We have done
2 that and said if the operator says these funds are ours,
3 based on these forms, then we would like our money. It has
4 been well over a year since we initially came to the Board
5 with the very first application to ask for the funds to be
6 paid and Garden Reality Corporation and Hugh McRae Land Trust
7 are not corporate entities like Wal-Mart or some other profit
8 making corporations. They are companies or entities which
9 have family members. These are people who are not getting
10 the money that is rightfully theirs. So, I guess, I'm a
11 little concerned about what Mr. Swartz says about stepping up
12 to the plate, or as we say back home, bellying up to the bar,
13 but we don't have any complaint today about the numbers that
14 they say are in that account that belong to us. If they say
15 that's the amount that's in there that belongs to us, then we
16 will agree with that and we would like our money.

17 RICHARD GILLIAM: So, this is more a dispute of not
18 the amount of gas, but how the pricing was derived?

19 JILL HARRISON: Not today. Not today. That is an
20 entirely separate litigation which does not at this point
21 involve Garden Reality Corporation.

22 RICHARD GILLIAM: That's your position, that that's
23 not really the Board's---?

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1 JILL HARRISON: That's---.

2 RICHARD GILLIAM: ---business because you have met
3 the statute, you have an agreement, so you want us to release
4 that? This other issue is between the gas company and
5 your---.

6 JILL HARRISON: One of my client's today.

7 RICHARD GILLIAM: ---client's.

8 MAX LEWIS: The operator.

9 JILL HARRISON: It is in litigation in a Circuit
10 Court which has the jurisdiction to decide that matter. And
11 if they decide that the operator was correct in what they
12 did, then Hugh McRae and the other people will not receive
13 another dime. But they will be the ones making that
14 decision.

15 BENNY WAMPLER: I guess the issue for the Board...of
16 course, we...as you know, we have continued this. We've done
17 a lot of things trying to facilitate after it was represented
18 there was an agreement and then issues came up, we've tried
19 to facilitate that. But in 45.1-361.22 A5 it says, "The
20 Board shall order payment of principal and accrued interests
21 from the escrow account to all persons legally entitled there
22 to pursuant to the provisions of Section 45.1-361.21 and the
23 order of the Board. Such order shall be issued within thirty
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1 days of receipt of," and I emphasize, "notification of the
2 final legal determination of entitlement there to or upon
3 agreement with all claimants." So, the Board needs, I think,
4 an affirmative agreement of all claimants before the Board
5 can order this---.

6 SANDRA RIGGS: As to entitlement.

7 MAX LEWIS: This payment.

8 BENNY WAMPLER: ---as to entitlement.

9 JILL HARRISON: And why...why don't you think you
10 have that, if Hugh McRae and Garden Reality---

11 BENNY WAMPLER: We appear to have a dispute.

12 JILL HARRISON: They are not a claimant.

13 RICHARD GILLIAM: They are the claimants.

14 BENNY WAMPLER: I understand that.

15 JILL HARRISON: We are the claimants.

16 RICHARD GILLIAM: He is not a claimant.

17 JILL HARRISON: Hugh McRae and Garden Reality are
18 the claimants. It does not say claimant and operator. An
19 operator is a defined term.

20 BENNY WAMPLER: No, I understand that.

21 JILL HARRISON: So, I guess, that's where I'm---.

22 BENNY WAMPLER: The issue I am raising...you are
23 asking in your letter that the Board, as a part of its
24

1 findings, confirm that all deposits made by the operator were
2 made in accordance with the timely deposit requirements of
3 all applicable force pool orders and things like that.
4 You're...you know, to me...I'm just being very blunt about
5 it, you are dragging the Board in to something that is your
6 business to work out with the operator.

7 JILL HARRISON: I may misunderstand this, but Mr.
8 Wampler, aren't the pooling orders directed by the Board?
9 Would that not be your jurisdiction to confirm that they have
10 been followed?

11 BENNY WAMPLER: The pooling orders are. The pooling
12 orders are our jurisdiction.

13 JILL HARRISON: Well, if deposits are supposed to
14 made under those orders, would that not be the authority of
15 the Board to confirm?

16 BENNY WAMPLER: No, not to verify and confirm that
17 you are satisfied with those deposits. That's not---.

18 JILL HARRISON: No, I'm not saying dissatisfy. I'm
19 just...I mean, the only thing I want to make sure---.

20 BENNY WAMPLER: Or that you are in agreement with
21 them.

22 JILL HARRISON: ---is that the orders have been
23 followed. If you determine that the orders have been
24

1 followed, we have absolutely no complaint.

2 SANDRA RIGGS: Are you alleging that the orders have
3 not been followed?

4 JILL HARRISON: I...I do not know that, Miss Riggs,
5 so I can not---.

6 BENNY WAMPLER: She is saying the Board should
7 determine that before---.

8 SANDRA RIGGS: Based on what evidence?

9 BENNY WAMPLER: Right.

10 JILL HARRISON: Well, I understand you have been
11 given this, also. I mean, you gave---.

12 BENNY WAMPLER: That's not our job.

13 JILL HARRISON: ---this to Mr. Mullins and passed
14 it on and you have been through this?

15 SANDRA RIGGS: I haven't been through it. I pulled
16 them and copied them and passed them on. I have not been
17 through them. No.

18 JILL HARRISON: Uh-huh. Well, then how does...I
19 guess, I should ask this for my own education, how does the
20 Board confirm that operators generally are making deposits to
21 the appropriate escrow account in accordance with the pooling
22 orders that have been entered? How is that governed normally
23 in the process of how the business is conducted, because that
24

1 may answer the question of how it's confirmed?

2 SANDRA RIGGS: The escrow agent delivers a report
3 monthly as to what deposits are put into the account.

4 JILL HARRISON: And then does someone---?

5 SANDRA RIGGS: And there was a copy of that
6 distributed earlier by the escrow agent this morning.

7 JILL HARRISON: And then does someone from the
8 Board, or whoever is responsible for it, take the report and
9 confirm that under force pooling order for, let's just take
10 unit South Longwall Five, that this amount was deposited
11 quarterly as required by the order? Does someone from the
12 Board, or under authority by the Board, confirm that the
13 operator's actually making that deposit based upon the report
14 it receives?

15 BENNY WAMPLER: We have an auditor that is currently
16 reviewing the information and the Board does not have that
17 report from the auditor. It is an independent auditor.

18 JILL HARRISON: So, that's not something that is
19 done generally on a---.

20 BENNY WAMPLER: It is not done routinely at all, no.
21 I mean, typically you've got two methods of disbursal; one,
22 where the Court orders based upon the parties going to Court
23 and deciding who owns it; and the other is the agreement of

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1 the parties. When we...when it comes it us as a Board and
2 says, you know, we need you to disburse. We need one of
3 those issues. I understand you are saying, well, Hugh McRae
4 and Garden Reality are in agreement. But it appears that
5 there are these caveats to it that when the Board orders
6 disbursement that, you know, we need agreement as to dollars
7 and interest, the total funds.

8 JILL HARRISON: Well, interest, I cannot tell you,
9 and I don't believe that Miss Riggs could either, or anyone
10 else, because from our discussion, we knew that was going to
11 be a problem and what we...what I anticipate requesting is
12 that the Board at least order the disbursal of the principal,
13 and if there is a question as to the interest, because of
14 when deposits were made, or if the bank...and I understood
15 that they were going...that a discussion was going to be held
16 this morning about how interest could be calculated, possibly
17 on a weighted average so that would remove the necessity of
18 figuring out when each and every deposit was made, but that
19 was not discussed this morning. I don't see that as a reason
20 for withholding the payment of the principal if that's
21 something that can be calculated at a later date.

22

23 MARK SWARTZ: I guess, if I could just make

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1 three...and I won't even argue, I'll just make three
2 observations. Our request was simply that the people wanting
3 the money out indicate that they either agree the deposits
4 that we have represented to have been made were made or not
5 made, not that we calculated the number right, not that the
6 royalty deductions were...nothing like that. Simply that on
7 the dates that we have represented, or the total amount per
8 tract that we have represented, we paid to the escrow agent,
9 we would like some response that we agree you made those
10 deposits. That's one, that's just...that's all. That we
11 wrote a check and it went to the escrow agent and if you
12 total them up, this is what it is. Two, the escrow agent
13 needs to...and neither one of us have any control over this,
14 but the escrow agent needs to be told what principal we think
15 is coming out and needs to allocate costs because, I mean, he
16 has fee...they have fees and interests and come up with some
17 other number and I think that number exposes the Board to
18 complaints from people whose money is not coming out of
19 escrow, that you somehow disproportionately distributed
20 income or misallocated expenses. So, I think you need to
21 have that on a hearing docket, give public notice like you do
22 with regard to everything else, that you are going to
23 consider a partial distribution out of these various

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1 accounts. I mean, it's just kind of what I contemplated
2 here, so that you give notice to other people in that, you
3 know, who have claims to that, to have an opportunity to come
4 in and test whether or not the allocation process seems to
5 make sense or seems to be a fair way to allocate. So, that's
6 point two. Point three is, we didn't force pool these
7 people. We have leases with them and the reason they are
8 suing us in Federal Court is because they don't like the way
9 we are administering our leases. You have jurisdiction over
10 the fact that the orders allowed us to escrow conflicting
11 claims arising between lessees of ours because this is a
12 Buchanan Production issue. But it's not, you know,
13 jurisdiction because you force pooled these people. I mean,
14 I'm not sure that it is a huge distinction, but we do have
15 leases with these folks. And those are just the three points
16 that I would make.

17 With regard to the process that we talked about at
18 the last meeting in terms of having a committee, having some
19 input, getting some consensus, if we can, to bring to the
20 Board in terms of a way to do this. You know, I'm not
21 suggesting these folks need to wait for that, but I think
22 that the couple of issues that I have raised need to happen
23 before the Board, I would think, would feel comfortable

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1 disbursing funds.

2 JILL HARRISON: If I may say, we will...we agree to
3 number one, except on the North East Longwall Ten because
4 there is such an obvious discrepancy between what the
5 operator says they deposited and what the bank has. I
6 don't...I don't want to make that an issue at all. So, we
7 would agree...if the operator says we deposited this, fine.
8 We will agree to that.

9 MARK SWARTZ: And we will get to the bottom of that.
10 I mean, if that's the only question, we will figure...I
11 mean, we think we sent the money back and we will get to the
12 bottom of that.

13 JILL HARRISON: Yeah. Yeah. It should...I think
14 it's probably just an accounting mix up somewhere along the
15 line. On the number two issue about the fees, from what I
16 have seen and have been provided, the bank takes their fees
17 off on a monthly basis. So, the fee should be current. I
18 mean, that's not something that's going to take a long time
19 to calculate or take care of. Oh, and as far as the notice
20 that Mr. Swartz is talking about, I believe the Board has
21 done that because you are basically required to before you
22 can take action. Publication has to go out and what was
23 included in the public, and Mr. Fulmer probably can answer

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1 more to this in the publication, was that these units would
2 be considered for amending supplemental orders and
3 disbursement of funds. So, notice was given in accordance
4 with the regulations that you abide under.

5 SANDRA RIGGS: Well, I think what he is saying is
6 that there's been no notice given as to the process that will
7 be used to allocate interest, which could affect other
8 members within the unit.

9 JILL HARRISON: All right. Well, then if
10 that's...if that's a problem, then we would wait---

11 SANDRA RIGGS: I think that's what I heard.

12 JILL HARRISON: ---on the payment of interest, if
13 we could have our principal. I mean, we are talking five
14 hundred and thirty-three thousand dollars (\$533,000).

15 MARK SWARTZ: I mean, I don't have a problem with
16 paying out the principal if they agree on the numbers, and it
17 sounds like except for the one mistake that they have
18 identified that seems to be someone's mistake that we can get
19 to the bottom of, they are in agreement that the deposits
20 were made. I don't have a problem with that based on that
21 representation. But I think we need to get the escrow agent
22 in here to give us these additional numbers and have some
23 process to air that calculation.

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1 SANDRA RIGGS: Well, part of the original concept
2 was that if we knew the date of deposits, that the escrow
3 agent could calculate from the date of deposit what the
4 interest was. The accounting that we received did not
5 itemize date of deposits. So, we have no time line for the
6 calculation of interest.

7 MARK SWARTZ: Well, the---.

8 SANDRA RIGGS: Well, you are having a partial
9 disbursement...the whole unit is not being disbursed. Just
10 certain tracts within the unit. These accounts are set up on
11 a unit by unit basis. We are not disbursing all the money
12 within the account. We are only disbursing certain tracts
13 within the account, which means you have to pro-rate the
14 interest that accrued on that account back to those deposits
15 and what we do not have is the date of deposits to pro-
16 rate...to do that pro-ration, if you are going to do it based
17 on an actual calculation.

18 MARK SWARTZ: Well, you've got...you've got it in
19 the box. Okay. But is huge...no, but it's a huge job and I
20 think a reasonable way to deal with that is a weighted
21 average, which...you know, Jill was talking about. But I
22 think if you are going to implement some...in conjunction
23 with your escrow agent, some reasonable economical way to

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1 allocate costs and expenses, I think you need to tell people
2 in advance that it's something that you are considering and
3 this is...this are your options and kind of implement
4 something to do that. But, I mean, the complaint I had from
5 Mr. Siegel is, I don't want to dig through a huge box of
6 documents because he was saying, I don't have anything I can
7 make this judgment. I said, yeah, you do, but you don't want
8 to sit in a room for a week with check stubs covering six
9 years, comparing them to a total. But, I mean, if you are
10 going to calculate interest that way, the documents are there
11 to do it, it's just, is it really efficient given the
12 interest rates that we are experiencing on that account, to
13 really do it that way? It probably isn't.

14 JILL HARRISON: And I agree with Mr. Swartz on that.
15 I mean, I went through just two units over the weekend. The
16 information that you gave me, the stack of documents that he
17 has mentioned, and I was able to pull together when deposits
18 were made based on the transcript description provided by the
19 bank and then compare to the accounting---.

20 MARK SWARTZ: Right.

21 JILL HARRISON: ---statements. I mean, I could do
22 it. But as Mr. Swartz indicates, it would take some time. I
23 mean, I could tell you that on August 25th, 1992, one

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1 thousand two hundred seventeen dollars and nineteen cents
2 (\$1,217.19) was deposited to the Northeast Longwall Nine
3 unit. I mean, I could go through the rest of the unit and
4 tell you when the deposits were made, but I agree with Mr.
5 Swartz on that account, that if it would mean my clients
6 getting the money a couple of months earlier, I'm all for the
7 weighted average.

8 SANDRA RIGGS: But that affects everybody, not just
9 your clients, that's the point...

10 JILL HARRISON: Well, I understand that completely.

11 SANDRA RIGGS: ...Of having to go through a hearing
12 on that issue.

13 JILL HARRISON: But again, if we can have the
14 principal, we are more than willing to wait on the
15 calculation and determination on the interest.

16 SANDRA RIGGS: Well, I guess it comes down to
17 whether or not there is an agreement on entitlement when you
18 only have partial agreement, you know, whether the
19 Board...how many times the Board wants to revisit this and
20 try to make this disbursement. If we could take a moments
21 break. I would like to talk with Mr. Zorn for a second.
22 Could I do that, please?

23 BENNY WAMPLER: Sure.

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1 SANDRA RIGGS: Do you mind?

2 BENNY WAMPLER: We will take a five minute break.

3 (Break.)

4 BENNY WAMPLER: Okay. We are back in session,

5 folks. Obviously, the Board has no reason to withhold

6 any...any funds that it can disburse. I think

7 everyone...hopefully everyone knows that. What we are trying

8 to make certain of is, whatever the Board does here is

9 something that will be legally supported. This is a

10 precedent we are setting in anything we do here and we are

11 trying to be very cautious about that to make certain that

12 all parties that are involved in any unit, any tract even,

13 are treated fairly and appropriately by the code. A key term

14 in here is "entitlement". What does that mean? Is

15 that...can that be...is that just principal or is that in

16 fact, principal and interest? I guess, that's something that

17 we often look to the attorneys to say how does the

18 Commonwealth interpret entitlement, or has it been

19 interpreted. Sandy, I don't know if you want to venture into

20 that arena.

21 SANDRA RIGGS: Well, we hashed this over quite a bit

22 and I think "entitlement" means total claim of the escrow

23 account and that means principal and interest.

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1 MAX LEWIS: Uh-huh. Right.

2 SANDRA RIGGS: What we are getting into here is a
3 partial disbursement of a partial disbursement of an account
4 and the problem that it leads to is, if you are going to pull
5 the principal out without a method in place for calculating
6 the interest and allocating it back, it further complicates
7 the problem. So, from the Commonwealth's point of view
8 "entitlement" means total claim to the escrowed deposit and
9 that includes both the elements of principal and interest.

10 JILL HARRISON: I just have a question. They way I
11 read the statute, it's an either/or. "You would receive
12 notification of the final legal determination of entitlement
13 thereto, or upon agreement of all claimants---." So, if we
14 have an agreement of all claimants---.

15 SANDRA RIGGS: As to entitlement.

16 JILL HARRISON: That's not what the statute says.

17 SANDRA RIGGS: Well, then what is the agreement as
18 to if it is not entitlement, Jill?

19 JILL HARRISON: I...we agree with the---.

20 SANDRA RIGGS: To what?

21 JILL HARRISON: I'm going to tell you, Miss Riggs.

22 SANDRA RIGGS: Okay.

23 JILL HARRISON: We agree that based upon the

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1 information that the operator has provided, they have put
2 those funds in there, except for the Northeast Longwall Ten,
3 which we will figure out, I'm sure, as an accounting problem.
4 So, the two claimants that are entitled to those funds are
5 Hugh McRae and Garden Reality. We agree that those funds are
6 ours. We also agree to defer the payment of interest, if we
7 can have our principal now, so that the Board can take as
8 much time as it would like to determine how it's going to do
9 the interest, whether it is on a weighted average, or if
10 someone is going to have to go through here and figure out
11 when all the deposits were made. Now, that's an agreement
12 between the claimants. Now, if the funds are taken out, they
13 are taken out and the interest can be calculated in the same
14 way it would have been on a weighted average, if that's what
15 you decide, as it would if it were there.

16 SANDRA RIGGS: No, because you still have principal
17 remaining in there belonging to other people that's---.

18 JILL HARRISON: I understand that.

19 SANDRA RIGGS: ---accruing interest where the
20 principal that's applicable to your client is not in there
21 and that's all commingled.

22 JILL HARRISON: I understand that. How is that
23 different from the situation---?

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1 SANDRA RIGGS: Because you can't do it weighted
2 average any more once you do that.

3 JILL HARRISON: Well, how is that different from the
4 situation where initially not everything attributable to
5 these two conflicting interests was not deposited, and it
6 wasn't deposited until, say, two years after initial deposits
7 were made into this account? So, if those funds...this big
8 chunk of funds didn't come in till two year later, how is
9 that different from taking that big chunk of funds out? You
10 are going to have to do the same calculation that you would
11 throughout the time period. Well---.

12 SANDRA RIGGS: And until the escrow agent is able to
13 tell us what that means in terms of their accounting, I don't
14 know how that's different.

15 JILL HARRISON: Why didn't we ask them this morning
16 while they were here?

17 BENNY WAMPLER: Wasn't subject to the hearing.

18 SANDRA RIGGS: Hasn't been noticed for hearing.

19 JILL HARRISON: How...what time period does the
20 Board envision that this process is going to take?

21 SANDRA RIGGS: Jill, today is the first day...the
22 first day that there has been an agreement even as to the
23 principal portion of the entitlement.

24

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1 JILL HARRISON: Miss Riggs, you and I talked
2 possibly three weeks ago and I told you then on the phone
3 that I did not envision and I---.
4 SANDRA RIGGS: Envision.
5 JILL HARRISON: ---was ninety-nine point nine
6 percent sure---.
7 SANDRA RIGGS: Right.
8 JILL HARRISON: ---that there would not be any
9 problem with the funds that were said to be deposited by
10 Consol.
11 SANDRA RIGGS: And you would write me a letter to
12 that effect, which came in yesterday.
13 JILL HARRISON: And I had fifteen days to do it.
14 SANDRA RIGGS: Which came in yesterday.
15 JILL HARRISON: But as an attorney, if I know that I
16 have a issue that's going to come up, I prepare for it. I
17 look at the issue. I study it. I review it. I seek counsel
18 where I need it, so I'm prepared to address it. This is how
19 long that we have been coming to the Board asking for the
20 funds to be disbursed and each time we come there is a new
21 stumbling block. There is a new hurdle that has to be gone
22 over. So, all I would like...all I would appreciate is your
23 thoughts or opinion about how long this process will continue
24

1 to take so that I can go to my clients, who are here also and
2 they can pass it on to their family members, that this is
3 what is going to happen. I mean, I would love to give them a
4 definitive answer. That's all I would like to know.

5 BENNY WAMPLER: I don't think there is a definitive
6 answer when you don't have an agreement among all parties as
7 to the entitlement...to all the principal and interests.

8 JILL HARRISON: So, the interest, what we need to
9 know then...okay, what we need to know then to determine the
10 interest, we need to have a meeting with the escrow agent or
11 have a hearing---?

12 SANDRA RIGGS: Well, you said you have the
13 information to figure it out.

14 JILL HARRISON: I'm not...my client is...are family
15 members who should not have to bear the legal expense of
16 paying me to sit down and go through this, when this is
17 information that, one, should be something the escrow agent
18 can spit out; and two, was subject to Board orders that are
19 subject to Board enforcement. So, yes, I have the
20 information, and I can spend the time to do it, and if the
21 Board would like to pay me to do it, I will do it. But it is
22 not fair to ask individuals who are entitled to these funds
23 to pay for an attorney to do that. That is not equitable and
24

1 that is something that I think the Board as appointees by the
2 Governor of the Commonwealth of this great State should
3 realize.

4 SANDRA RIGGS: Well...and we have been struggling
5 with that forever.

6 JILL HARRISON: I know.

7 SANDRA RIGGS: Somebody has to sit down and go
8 through that and figure it out.

9 JILL HARRISON: Would the auditors---?

10 SANDRA RIGGS: And the statute says you've got have
11 agreement of parties as to entitlement.

12 JILL HARRISON: Then if we...we are agreed on the
13 principal amounts. All we have to agree to is interest. I
14 mean, is that...am I correct in stating that? We have to
15 agree to what interest is held in that escrow account, what
16 portion my clients are entitled to. Is that the issue we
17 have to decide?

18 BENNY WAMPLER: Yeah, that is.

19 JILL HARRISON: All right. Then, what is the next
20 step we need to take to determine that? What should our next
21 steps be to resolve that issue?

22 BENNY WAMPLER: Actually, I thought coming here that
23 you would have that worked out and I thought that the

24

--

1 oper---.

2 JILL HARRISON: The interest?

3 BENNY WAMPLER: I thought you would have because
4 we've made the escrow agent available. We've ordered the
5 deposit information made available.

6 JILL HARRISON: I can contact the escrow agent?

7 BENNY WAMPLER: We've talked with the operator about
8 responsibilities. You've heard Mr. Swartz say his counter
9 opinion of that that you know...I know that you can say the
10 Board should do this and the Board should do that and we are
11 not shirking, you know, any responsibility at all. We are
12 just saying the Board does not have detailed regulation on
13 disbursal of funds from an escrow account. We've talked at
14 last meeting about doing...you know, deciding whether or not
15 we would do that by order or do that by regulation, sometime
16 this year hopefully. But, you know, we don't have those
17 detailed regulations. What we have is what is in the statute
18 and you've heard the interpretation that that is the
19 principal and interest.

20 JILL HARRISON: So, if I...then I understand from
21 what you are saying, I can call the escrow agent directly and
22 I can sit down with them and meet with them and look at what
23 interest---.

24

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1 BENNY WAMPLER: As to your funds.

2 JILL HARRISON: Well...but if I have that authority,
3 that will cut greatly through everything. I mean, if we...if
4 we reach an agreement that, yes, we will use the weighted
5 average and we are entitled to X number of dollars out of
6 that account.

7 SANDRA RIGGS: No. Jill, you can't reach an
8 agreement that you will use the weighted average because that
9 affects everybody in your drilling unit.

10 JILL HARRISON: Okay. Then what is the next step we
11 need to do---?

12 SANDRA RIGGS: You would have to have a consent of
13 everybody in the drilling unit to use the weighted average.

14 JILL HARRISON: All right. Then what do I...what do
15 I need to do? What should be my next step that I can come to
16 you with something that will satisfy the Board to make sure
17 that you feel comfortable that you are legally supported?

18 SANDRA RIGGS: Well, I think what we were
19 recommending was that we would go to the escrow agent and
20 notice that down for hearing and try to get a recommendation
21 as to how they think within their accounting system they
22 could allocate interest. But because it affects everybody in
23 the drilling unit, not just your clients, that would have to
24

1 be set down for hearing and noticed and be given
2 public...public airing so that other people have a chance to
3 comment or object if they have an objection and that's how
4 the Board would be protected.

5 JILL HARRISON: So, then the third Tuesday in
6 October this will be on the docket, we should have the escrow
7 agent here with a proposal on how the interest should be
8 determined---?

9 BENNY WAMPLER: We haven't decided that. We could
10 do that.

11 JILL HARRISON: Well, I would respectfully request
12 that, because that would give a month's time to look at the
13 information and make a request, let the escrow agent look at
14 it, review it and come back with a proposal, because if he
15 can come back with a proposal, everybody is noticed and the
16 Board is comfortable with that, that's all we would need to
17 know. They apply that calculation to our interest and we
18 could possibly have our money by the end of next month. So,
19 what you would need to do and what I would request is that
20 you continue this matter---.

21 BENNY WAMPLER: Okay.

22 JILL HARRISON: ---so that it appears also on the
23 October docket and I respectfully request that you notice for
24

--

1 the escrow agent to come here with a proposal for the payment
2 of the interest.

3 BENNY WAMPLER: And put all parties on notice that
4 that's going to be subject to the hearing, all parties in the
5 unit.

6 JILL HARRISON: And anticipate that we can...
7 hopefully, the Board will be provided with enough information
8 to make that decision.

9 SANDRA RIGGS: Now, as to the principal, though, the
10 escrow agent can receive this and you all are now, except for
11 Northeast Longwall Ten---?

12 JILL HARRISON: And that's only because of the
13 discrepancy between---.

14 BENNY WAMPLER: We understand that.

15 JILL HARRISON: Consol says they put this money in,
16 we agree that that amount was deposited. But, of course,
17 that's not what the bank shows in the escrow account as of
18 last Tuesday.

19 BENNY WAMPLER: You okay with that?

20 JILL HARRISON: Well, no, but if it's what I've got
21 to go with, it's what I've got to go with. So---.

22 MAX LEWIS: I would like---.

23 BENNY WAMPLER: Any objection to continuing with the
24

1 understanding that it will be noticed as we discussed.

2 (No audible response.)

3 BENNY WAMPLER: Okay. It will be continued. Thank
4 you. The next item on the agenda is a petition from Buchanan
5 County Production Company for...Buchanan Production Company
6 for pooling of coalbed methane unit identified as S-35. This
7 is docket number GOB-98-09/15-0681. We'd ask the parties
8 that wish to address the Board in this matter to come forward
9 at this time.

10 SHIRLEY KEENE: You don't have room for all of us to
11 come forward.

12 BENNY WAMPLER: Do you have a spokesperson?

13 MARY JANE KEENE: We all are going to speak.

14 BENNY WAMPLER: Okay. We will make...pull up
15 chairs. We will give you an ability to come forward as we
16 can seat you. Is that okay?

17 (No audible response.)

18 BENNY WAMPLER: If all of you can't come forward as
19 others speak, we can kind of rotate out. Is that acceptable?

20 (No audible response.)

21 BENNY WAMPLER: Do you know what I'm saying? In
22 other words, these people speak and then they can move back
23 and the other ones can speak. As long you sit where you can

24

--

1 hear what's going on.

2 SHIRLEY KEENE: Is it okay if we tape this?

3 BENNY WAMPLER: That's fine.

4 SHIRLEY KEENE: Our attorney can't be with us today.

5 So, we have to---.

6 BENNY WAMPLER: I'm sorry.

7 SHIRLEY KEENE: Our attorney cannot be with us

8 today. So, we have to take care of it ourself and then we

9 fill him in on everything.

10 BENNY WAMPLER: Okay. We do have a recorder here

11 that is transcribing it. So, that transcript will also be

12 available, but you are welcome to record it.

13 MARK SWARTZ: Mark Swartz and Les Arrington are here

14 on behalf of the applicant.

15 BENNY WAMPLER: Okay. Could I just get the names of

16 the parties that are here today at the present time and then

17 we will...I ask you again to introduce yourselves as you

18 speak. But we will let them go forward and then give you an

19 opportunity to speak. So, if you would just...start with you

20 and then---.

21 THELMA OSBORNE: Thelma Osborne.

22 SHIRLEY KEENE: Shirley Keene.

23 KENNETH OSBORNE: Kenneth Osborne.

24

--

1 SARAH DAY: Sarah Day.

2 DALLAS HORNE: Dallas Horne.

3 BENNY WAMPLER: You may proceed, Mr. Swartz.

4

5 LESLIE K. ARRINGTON

6 having been duly sworn, was examined and testified as

7 follows:

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. SWARTZ:

10 Q. Mr. Arrington, you are still under oath?

11 A. Yes.

12 Q. Okay. You need to state your name again for
13 the record?

14 A. Leslie K. Arrington.

15 Q. And who are you employed by?

16 A. Consol.

17 Q. And your title with them?

18 A. Permit Specialist.

19 Q. Did you prepare the notice and application
20 in the related exhibits with regard to this pooling
21 application for S-35?

22 A. Yes, I did.

23 Q. Are the respondents listed in the...on the

24

--

1 notice of hearing?

2 A. Yes, they are.

3 Q. And are they also listed on Exhibit B-3?

4 A. Yes, they are.

5 Q. Is this a unit to be pooled under the

6 Oakwood I rules?

7 A. Yes, it is.

8 Q. So, it is a frac unit?

9 A. Yes, it is.

10 Q. The applicant here is Buchanan Production

11 Company?

12 A. Yes, it is.

13 Q. Is Buchanan Production Company a Virginia

14 General Partnership?

15 A. Yes, it is.

16 Q. And who are its partners?

17 A. Appalachian Methane and Appalachian---.

18 Q. Operators.

19 A. ---Operators.

20 Q. Okay. And are both those corporate entities

21 the partners in Buchanan Production Company indirect

22 subsidiaries of MCN Corporation?

23 A. Yes, they are.

24

1 Q. Okay. Is Buchanan Production Company
2 requesting that someone other than itself be appointed or
3 designated the operator?

4 A. Yes, it is.

5 Q. And who---?

6 A. Consol, Inc.

7 Q. And that would be Consol, Inc.?

8 A. Yes.

9 Q. Okay. This eighty acre unit in the Oakwood
10 Field, what are the seams that are at issue?

11 A. All seams below the Tiller Seam.

12 Q. Okay. And have you filed with the Board an
13 estimate with regard to the cost of the well?

14 A. Yes, we have.

15 Q. For wells, I should say?

16 A. Yes.

17 Q. How many wells are proposed?

18 A. There are two wells proposed for this unit.

19 Q. Okay. And is that because of the mine
20 plans?

21 A. Yes, it is.

22 Q. And is the location of the wells dictated by
23 mine plans?

24

1 A. Yes, they are.

2 Q. And what mine is either underneath or
3 proposed to be underneath this unit?

4 A. The Buchanan Number One mine.

5 Q. Okay. The same mine that we were talking
6 about earlier today?

7 A. That's correct, it is.

8 Q. And one of the wells is in the drilling
9 window and one is outside?

10 A. That's correct, it is.

11 Q. And ultimately...have those wells been
12 drilled yet?

13 A. No, they have not. Only one of the wells
14 has been permitted to date.

15 Q. Okay. Which one?

16 A. Well S-35B.

17 Q. Okay. The one outside the drilling?

18 A. The drilling, yes.

19 Q. And in that instance, Mr. Fulmer was
20 authorized under the Oakwood rules to grant a location
21 exception because of the mining?

22 A. That's correct.

23 Q. Okay. And the second one to be permitted it
24

1 would be the one in the window?

2 A. That's correct.

3 Q. And the target formation is at what depth in
4 this area?

5 A. Approximately nineteen hundred and ten feet
6 (1,910).

7 Q. Okay.

8 A. Its total depth of the hole.

9 Q. The costs that is reported in Exhibit C, is
10 that the cost of the 35B...S-35B well or is that an estimate?

11 A. That's an estimate.

12 Q. Okay. And what is the amount of the
13 estimate?

14 A. Two hundred and thirty-three thousand eight
15 hundred seventy dollars and fifty cents (\$233,870.50).

16 Q. Okay. And does that include the frac?

17 A. Yes, it does.

18 Q. Okay. Has the S-35B well been stimulated as
19 yet?

20 A. It has not been drilled yet.

21 Q. Okay. Just permitted?

22 A. Permitted.

23 Q. Okay. With regard the interest of the
24

1 applicant in the unit and the interest that you are seeking
2 to pool, if you would turn to Exhibit A, page two to the
3 application.

4 A. Yes.

5 Q. And just tell the Board the interest that
6 the applicant has acquired and the interest that are
7 outstanding?

8 A. We control 100 percent of the coal...coalbed
9 methane and 97.6059 percent of the oil and gas interest.

10 Q. And what interest in this unit are you
11 seeking to pool then?

12 A. 2.3941 percent.

13 Q. Of just the oil and gas, right?

14 A. Oil and gas interest.

15 Q. Okay. In Exhibit B3, have you listed the
16 respondents?

17 A. Yes, we have.

18 Q. In the various tracts?

19 A. Yes, we have.

20 Q. Okay. And in Tract One, the respondent is
21 Department of Transportation?

22 A. It is.

23 Q. We are dealing with another road?

24

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1 A. That's correct, it was.

2 Q. And Tract Number Two, we are dealing with

3 the Stillwell heirs and the two folks that are listed there

4 that have not signed leases?

5 A. That's correct.

6 Q. And then the third tract at issue is Tract

7 Number Three, and apparently there's 1.5...1.15 acres of that

8 tract in this unit?

9 A. That's correct.

10 Q. And what is the percentage interest in the

11 unit associated with that tract?

12 A. 1.4375 percent.

13 Q. Would you summarize the lease terms that you

14 have offered to the folks you've obtained leases from and

15 would offer to the unleased people?

16 A. Yes, those are one-eighth royalties, a

17 dollar per acre with a five year term. The dollar per acre

18 being a rental until production commences.

19 Q. Okay. And that...and that would just be for

20 coalbed methane?

21 A. Coalbed methane.

22 Q. Not including conventional?

23 A. That's correct.

24

1 Q. Did you provide written notice to the
2 application and the hearing date to folks?
3 A. Yes, we did.
4 Q. And have you filed something with the Board
5 concerning that?
6 A. Yes, we did. We filed an affidavit of due
7 diligence.
8 Q. And have you also filed the schedule, the
9 dates of mailing and the status of the mailing and the
10 cards...copies of the cards?
11 A. Yes, we did.
12 Q. And what Exhibit is that?
13 A. Page number three through eleven is the
14 return receipts.
15 Q. Okay. And did you also publish?
16 A. Yes, we did, in the Bluefield Daily
17 Telegraph. We published on August 18th, 1998.
18 Q. Are you seeking or requesting that the Board
19 add any respondents today?
20 A. No.
21 Q. Are you requesting that they dismiss any?
22 A. No.
23 Q. Okay. So, as a result of your title search,
24

1 you have on Exhibit B3 listed everyone you have been able to
2 identify who has an outstanding unleased or not owned
3 interest?

4 A. That's correct.

5 Q. The percentage on Exhibit B3, the percent of
6 unit would be the relevant percentage for allocation of
7 production and allocation of costs in terms of participation
8 or carried interest?

9 A. Yes, it is.

10 Q. Okay. And with regard to frac costs, the
11 only...you are only seeking to allocate the cost of one frac
12 well if I'm not mistaken?

13 A. That's correct, we are.

14 Q. And ultimately, if there is active gob
15 production here, we might deal with that second well, but
16 just from the terms of frac production, we are only going to
17 be dealing with allocating costs of one well?

18 A. That's correct.

19 Q. And the order should so reflect?

20 A. That's correct, it should.

21 Q. Okay. My last question is, is it your
22 opinion that the proposed plan that's displayed in the plats
23 and exhibits here is a reasonable method to develop the
24

1 coalbed methane within this unit?

2 A. Yes, it is.

3 Q. Okay. That's all I have.

4 BENNY WAMPLER: Any questions from members of the
5 Board?

6 BILL HARRIS: Mr. Chairman, just one question.

7 BENNY WAMPLER: Mr. Harris?

8 BILL HARRIS: Mr. Arrington, on B3 back to on that
9 first page.

10 A. Uh-huh.

11 BILL HARRIS: At the top, I'm a little confused. It
12 has Tract Number Four for Virginia Department of
13 Transportation.

14 A. Yes, sir.

15 BILL HARRIS: On the next page is Tract
16 Number...well, two pages over, Tract Number Four again.

17 A. Uh-huh.

18 BILL HARRIS: And they have the same information, is
19 that the same tract or what?

20 A. What that...yes, it is the tract, but that
21 first tract you see on that...I'll reference it as the page
22 one, that's their coal interest.

23 BILL HARRIS: Yes. Coal fees. Okay.

24

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1 A. And then the second time you see it is their
2 oil and gas interest.

3 BILL HARRIS: Okay. So, we are referring to the
4 same, same property?

5 A. That is correct.

6 BILL HARRIS: Thank you.

7 BENNY WAMPLER: Other questions from members of the
8 Board of this witness?

9 (No audible response.)

10 BENNY WAMPLER: Do you folks have any questions of
11 this witness?

12 KENNETH OSBORNE: As of this...this is a hearing for
13 force pooling and stuff. One of the main concerns is these
14 escrow accounts. We would like to find out, as of this day,
15 has any deposits been made in these escrow accounts?

16 BENNY WAMPLER: Do you know if there is any?

17 A. To...to this unit, to this docket number to
18 date, there has been nothing...there is no drilling in this
19 unit.

20 KENNETH OSBORNE: Okay. Let me...let me rephrase my
21 question to you. We've been here over several of these. Has
22 there been any deposits made to any of the escrow accounts
23 concerning the Linkous Horne heirs?

24

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1 A. No, sir, there's been no production out of
2 those units to date. We are just getting to that...our well
3 is drilled. We are just getting in that area. We are
4 working...we are working towards that. But we are not there
5 yet.

6 KENNETH OSBORNE: So, all of the units that we have
7 been here on the hearings about, there's been no deposits in
8 any of them?

9 A. No production.

10 BILL HARRIS: Mr. Chairman, if I could just follow
11 up.

12 BENNY WAMPLER: Mr. Harris?

13 BILL HARRIS: Is this normal? I mean, I don't know
14 what the...I guess we could find out by going through the
15 stacks of papers, but how long generally...well, it just
16 depends on the individual wells. Is the length of time
17 normal for that group of folks as opposed to others? I'm not
18 sure what...I'm not sure what his question---. Are you
19 through with your questions?

20 KENNETH OSBORNE: No, sir. Go ahead. Go ahead.

21 BILL HARRIS: It just raised the question if that
22 production...if we haven't advanced that far or the drilling
23 program isn't there yet or what?

24

--

1 A. We are not there yet.

2 MARY JANE KEENE: There's a well---.

3 BILL HARRIS: Okay. Now, is that typical in terms

4 of the length of time it takes between---?

5 A. Sure. It takes us some times quite a while

6 to get there.

7 BILL HARRIS: Okay. So, between the approval here

8 and all of the certifications and everything. So, this is

9 normal is what you are saying---?

10 A. Yes, it is.

11 BILL HARRIS: ---on the length of time?

12 MAX LEWIS: Is it...are the pipelines laid from

13 these two units?

14 A. No.

15 BILL HARRIS: Is there any way to---?

16 MAX LEWIS: How long have they been drilled?

17 A. This unit and this unit...these wells

18 are...just the one well is under construction.

19 KENNETH OSBORNE: What about the other units that we

20 have been over here for the force pooling before? Have

21 they...are they drilling it?

22 A. I believe there is one of those units been

23 drilled, but we are still in the process of getting the

24

1 well...pipeline to it and the other well, I believe you have
2 been here for three well...three units. I believe that's
3 correct.

4 SHIRLEY KEENE: Right.

5 A. I believe that's correct.

6 MAX LEWIS: And known of those---?

7 A. And the other one we have not begun
8 construction on yet. So, two of the three have not been
9 drilled yet.

10 KENNETH OSBORNE: So, there's no...there's no time
11 limit set for production or anything even...once we come here
12 and it's issued, there is a force pooling and you all receive
13 the order, we receive the order that you all was granted,
14 there is no time limit?

15 A. Yes, there's a two year time limit on the
16 permit and pooling process. But we have...we are actively
17 pursuing to get there, but we are just not there yet.

18 MAX LEWIS: How long is that one unit been drilled?

19 A. I believe it was May...in May of this year.

20 MARK SWARTZ: Yeah, we were here in April or May, I
21 think, if I'm not mistaken on the other units.

22 KENNETH OSBORNE: Then, I guess we can tell you that
23 it has no bearing on the fact we haven't made an agreement

24

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1 with you all and that doesn't have any bearing on the...the
2 effort you all are putting into trying to get these wells in
3 operation?

4 A. I don't understand the question.

5 MARK SWARTZ: He wants to know if you have delayed
6 any of your operations because you haven't been able to reach
7 an agreement with them. I think that's his question.

8 A. No, sir, we haven't. We are actively
9 pursuing our project. It's just that we haven't got there
10 yet.

11 KENNETH OSBORNE: Okay. What's...once you all do
12 start pumping and stuff, what...what time period are we
13 looking at to see a deposit or anything in these escrow
14 accounts?

15 A. The deposits are made... production deposits
16 are lagged...the actual production by two months and then it
17 will start showing up monthly then.

18 KENNETH OSBORNE: Okay. Is it a common practice to
19 go ahead and have the accounts already set up, but make no
20 deposits in them?

21 A. Uh-huh. Yes, it is.

22 SANDRA RIGGS: When the Board enters a pooling
23 order, then there is a supplemental order and that...that

24

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1 order directs the escrow agent to open the account in
2 anticipation of the well being drilled and the proceeds
3 coming in. So, what triggers the opening of the account is
4 the Board's action on this application.

5 KENNETH OSBORNE: Uh-huh. Okay. So, once...once
6 the Board makes the ruling for the force pooling and the
7 account are open---.

8 SANDRA RIGGS: Exactly.

9 KENNETH OSBORNE: I guess what I am getting at
10 is...that's the---?

11 SANDRA RIGGS: Then they have two years---.

12 KENNETH OSBORNE: ---two year time limit?

13 SANDRA RIGGS: ---by statute within...this order
14 would be good for a two year period. If they haven't drilled
15 and started production within the two year period, then this
16 order automatically dissolves by statute.

17 KENNETH OSBORNE: So, it is two years and not twelve
18 months.

19 SANDRA RIGGS: The statute was changed in '97 to two
20 years, I believe. The permit is good for two years as is the
21 pooling application.

22 MAX LEWIS: If you drilled this well in May, what's
23 the matter it hadn't been put in production?

24

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1 A. We are just in the process of getting our
2 pipeline out into that area.

3 MAX LEWIS: It seems to me like it's an awful long
4 time. When I worked for the gas company, we tried to get
5 them in production just as soon as possible.

6 A. We are working toward that, but we just
7 haven't got there yet.

8 MARY KEENE: Can I speak?

9 BENNY WAMPLER: Yes, ma'am. If---.

10 MARY KEENE: Since the well has been drilled---.

11 BENNY WAMPLER: If you will identify yourself for
12 us.

13 MARY JANE KEENE: I've got some pictures.

14 SARAH DAY: Identify yourself, Mary Jane.

15 MARY KEENE: I'm Mary Keen. We lost all of our
16 water since the last time...you can believe me or not. I'll
17 take a lie detector test. Does water suppose to do that?

18 RICHARD GILLIAM: That's no good.

19 MARY KEENE: That come out of my faucet out of the
20 bathroom since that well has been drilled. Okay. Right here
21 is a picture in the ditch line where comes right out of the
22 old mine works and it is red, but on top of it, it has got a
23 skim. That's right in my yard. It was by my house and my
24

1 water is poisoned. I can't even use it no more.

2 MAX LEWIS: Did you get an analysis run on it?

3 MARY KEENE: Yes, and I've got them with me. Can

4 you read them? Who can read these analysis?

5 MAX LEWIS: Uh-huh.

6 BENNY WAMPLER: They are the ones that our

7 department had run for you, weren't they? Is that the ones

8 you are talking about?

9 SHIRLEY KEENE: Are you the gentleman that I talked

10 to?

11 BENNY WAMPLER: Yes, ma'am.

12 SHIRLEY KEENE: Okay. But this was done after the

13 analysis was made.

14 MARY KEENE: Right here was the analysis first.

15 SHIRLEY KEENE: Saturday, she turned her faucet on

16 and suds came out of the faucet.

17 MARY KEENE: Right. I've got the date on top of the

18 can. And here is the pictures. That is the...my water is

19 poisoned and I ain't had no water since the 3rd of August and

20 that's in the can. Right here...I took this picture from off

21 of my porch and right here on the ridge right here is where

22 the well is drilled. Right here is the holler that comes

23 right down by my house, right beside of this well, and this

24

1 is on top of the mountain where the pipeline is supposed to
2 go. It's on the state road. Right here is the ridge where
3 they want to go on now and that is on the ridge right above
4 my house. And that old mining works, I've got the maps to it
5 if you would like to seen them.

6 SHIRLEY KEENE: There is two small children that
7 have to use this water and both of them have been in the
8 hospital.

9 MARY KEENE: And we have been getting boils.

10 SHIRLEY KEENE: They are breaking out with rashes.
11 They get boils and we are doing everything we can to try to
12 get the water fixed back, but we have no luck at all.

13 MARY KEENE: I have called everything in the book
14 about the water. Not even the environmental control has even
15 done anything about it. There are your well sites. Right
16 here is where I live and the mines---.

17 RICHARD GILLIAM: This is the one that's drilled,
18 right?

19 MARY KEENE: Yeah, that one is drilled. This is
20 where I live right here.

21 RICHARD GILLIAM: That's where the water is drilled?

22 MARY KEENE: That is the next one.

23 SHIRLEY KEENE: That's the reason we have been
24

1 fighting so hard.

2 MARY KEENE: And I don't understand why a Board can
3 give them a permit to do our property that way, and then them
4 just go right ahead and do whatever they please and they give
5 you four dollars and sixteen cents (\$4.16) a year.

6 SANDRA RIGGS: Well, first the Board doesn't issue
7 permits. Permits are issued through the Department of Mines,
8 Minerals and Energy. The Board deals with pooling, the
9 pooling issues only. So, there's two---.

10 MARY KEENE: But...and you are not concerned about
11 our water?

12 SANDRA RIGGS: Water complaints are addressed
13 through the Department of Mines, Minerals and Energy and
14 that's where you got your water sample.

15 MARY KEENE: (Inaudible).

16 KENNETH OSBORNE: Which that's regulated by the---.

17 MARY KEENE: What are we going to do for water?

18 KENNETH OSBORNE: ---EPA?

19 BENNY WAMPLER: Well, let me---.

20 MARY KEENE: And it will be two years before we get
21 water.

22 BENNY WAMPLER: Let me tell you now. I believe that
23 you called me, right?

24

1 MARY KEENE: Yes, I did.

2 BENNY WAMPLER: Okay. We had our inspector to come
3 over to the area. I'm talking department now, not the Gas
4 and Oil Board. I'm Deputy Director for the Department of
5 Mines, Minerals and Energy and we had our inspector to come
6 into the area and run tests. These analyses that you are
7 showing here, the water is bad.

8 MARY KEENE: Uh-huh.

9 BENNY WAMPLER: There is no question that the water
10 is very bad in that area. There is also no question there at
11 that mine that that is naturally occurring in that area
12 because of the...from the mixture of the water and the iron
13 and the other---.

14 MARY KEENE: And the soap.

15 BENNY WAMPLER: Well---.

16 MARY KEENE: That has to be soap because water don't
17 supposed to foam.

18 BENNY WAMPLER: I'll be happy to have that tested,
19 but, you know, I don't know that.

20 MARY KEENE: Well, it has done been tested and they
21 are testing it now.

22 BENNY WAMPLER: Okay. But I mean I'm not going to
23 dispute anything with you like that. You know, I am
24

1 verifying that the water is bad in that area. It naturally
2 is bad in that area.

3 MARY KEENE: Well, what are we going to do till we
4 get water?

5 BENNY WAMPLER: We have...we have gone beyond any
6 charge that we have, and I'm not asking for accolades, but we
7 have gone to the Public Service Authority as a department
8 trying to get water up in that area. That area...they are
9 moving that way. We know that, right? And we know that we
10 have been able to get some tanks put in. They have agreed to
11 haul water for some people.

12 MARY KEENE: Well, they ain't gave me no tank.

13 BENNY WAMPLER: I understand. I know there is
14 different reasons for some of that and I don't know all of
15 them. Okay? But I'm just saying, we have...our office and
16 Tom Fulmer's office, the inspector has gone above and beyond
17 trying to get people water. I mean, we would do anything we
18 can to try to get people in that area water. I've talked to
19 Wayne Watts, PSA director, this past week about that and some
20 of the other folks from Buchanan, was there any way that we
21 could speed up getting water because the water in that area
22 is bad. The water...and the people there need water. No
23 question about that.

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1 MARY KEENE: I know that both of us is disabled. We
2 have to haul water from Honaker, Virginia.

3 BENNY WAMPLER: Right.

4 MARY KEENE: And this...that...that sulfur and that
5 mess come out the road...in the road since that well was
6 drilled. See, I told them our water was bad the last time.
7 But he said our water was pulling pranks or something and
8 this time...and it's true and don't shake your head. It's
9 true. You've got it on tape, and then we started breaking
10 out and inching and then that water is coming out in the road
11 and I took pictures of it. So, that skim on top of there is
12 hiding the sulfur that has come out has never come out in
13 that road there for all my life that I have lived there.
14 And---.

15 SHIRLEY KEENE: And there has been no other activity
16 in the area except the gas well.

17 MARY KEENE: But that. And this contract...since
18 you don't read our contracts, it said other fluids and
19 everything that comes out of the ground. I think you all
20 ought to read the contracts before you are allowed to give
21 them a permit because we can't sign everything we've got away
22 to them just for a well. All they have to do is just tell us
23 to move out and if you want to read this, you can.

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1 BENNY WAMPLER: What kind of contract are you---?
2 MARY KEENE: This is the last contract on---.
3 BENNY WAMPLER: What kind of contract is it?
4 MARY KEENE: This well, it says fluids, brine
5 fluids, gas and all of this. Read it. Just go ahead and
6 read it.
7 SHIRLEY KEENE: They are not only asking for gas.
8 MARY KEENE: That's what they want, us to buy our
9 water and everything.
10 SHIRLEY KEENE: When we sign these contracts, we
11 have signed away...we will have no rights for nothing.
12 MARY KEENE: And I should have brought my other
13 contract where they get your rights to everything except just
14 your---.
15 KENNETH OSBORNE: Just a point on this...on the
16 water. From results and stuff I've got and checked the
17 mines, they do, they send the personnel to take samples and
18 all, and this is regulated through...and went over with the
19 EPA, but according to the damage incident reports (inaudible)
20 EPA regulation on factual processing, it states right
21 here...and this come in August of '98 from U.S. Court of
22 Appeals for the Eleventh Court, it states right here that EPA
23 is likely to rely solely on its staff and the staff of State
24

1 regulator agencies to provide damage incidence. And it
2 states here that they are not...it states right here, we do
3 not expect EPA to do a very good job of outreaching to the
4 injured parties.

5 BENNY WAMPLER: Is that a Supreme Court ruling or
6 something?

7 (No audible response.)

8 KENNETH OSBORNE: (inaudible) they passed it around.

9 BENNY WAMPLER: It's from David Letter with the
10 General Counsel for the Legal Environmental Assistance
11 Foundation, Incorporated.

12 SHIRLEY KEENE: We asked every time we have come out
13 here...this make eight times. We have come here four. We
14 went with Mr. Fulmer four times. Eight trips we have come
15 out here. We get the same thing every time we come. If they
16 want this...we own it, let them buy it and leave us alone.
17 I've got very bad health. Coming out here is chore for me to
18 even ride out here and I'm taking nerve pills now and we own
19 this, buy it or leave us alone.

20 MARY KEENE: And my property---.

21 SHIRLEY KEENE: Bottom line, buy us out. Buy our
22 gas or leave us alone.

23 KENNETH OSBORNE: We are just...all we are looking
24

1 for is a reasonable settlement. But I mean, the offers that
2 we have got, and they have changed several times, they're
3 just...they're totally ridiculous.

4 SHIRLEY KEENE: Nobody is going to sign away
5 everything they've got for four dollars (\$4) a year.

6 KENNETH OSBORNE: And we are not---.

7 SHIRLEY KEENE: That is a mockery on Buchanan
8 County.

9 MARY KEENE: And they also put twenty dollars
10 (\$25.00) on a hundred gallon of fuel we have to pay for this
11 winter. We have to pay twenty-five dollars (\$25) taxes on
12 fuel and it being pulled out of our ground for four dollars
13 sixteen cents (\$4.16) a year and we pay twenty-five dollars
14 (\$25) on a hundred gallon of fuel for us to burn in our
15 house. Do you think that's fair?

16

17 SARAH DAY: Well, the way it's going, it's eating up
18 our...our money to hire a lawyer to keep coming out here and
19 then they make it so complicated that you can never get the
20 money that's coming back and it should be changed that the
21 people that owns it could get the money instead of giving it
22 to a lawyer to fight this company that's got all of the
23 money. They want to hold all of the money. It's not that we

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1 are against letting them have it, but what we are against,
2 they want to get the products...they want to keep all the
3 money. They don't want to distribute with the people that
4 owns it. Now, that's what is wrong with the people that's
5 fighting this company and this company is doing everybody
6 like that. If it was one, you could say, well, there is
7 something wrong there. Well, there is something wrong that
8 this one company is doing Buchanan County all the same way.
9 Well, people keeps hiring a lawyer to come out here and fight
10 this company. Well, these lawyers, they've got to have money
11 to do it...to represent you. Well, by the time we get done,
12 there is nothing left. So, I think the Board should take
13 into consideration to make sure this company shows the
14 production that they are bringing out of your property, what
15 is yours and not on down the line and just keep putting you
16 off and putting you off till they get all of it and gone and
17 you still ain't got nothing. You are still paying your
18 lawyer. Now, that should be in consideration for the people,
19 because I feel like the Board is for the people. The people
20 elect you in and I think the Board should make sure that a
21 big company like this don't come in and run over a whole
22 county of people. The people is tired of it and somehow if
23 they have to take in their own hands. They don't want to,

24

--

1 but somebody will, because this company has got to be stopped
2 somehow.

3 SHIRLEY KEENE: This is our homes. I still owe ten
4 years on my home. If I have to relocate, how can I sell my
5 home to somebody else to go through the crap that we go
6 through? Now, if they want our gas, they can buy it.

7 SARAH DAY: They went over our driveway...I mean,
8 our right of way and bought it off of other people knowing it
9 belonged to us because it was right in the court house where
10 they got the rest of their stuff.

11 SOMEONE IN THE AUDIENCE: And they're not going to
12 leave either.

13 SARAH DAY: But they bought it...they bought it off
14 of other people.

15 MARY KEENE: They are not on the property yet, but
16 they are about a...well site bought off of two other people
17 that own the property, which we own the minerals under it.
18 But when they...but we have the right of way across there,
19 too.

20 SARAH DAY: And they are using our right of way they
21 bought off of these other people, knowing that we owned it
22 and put a gate across it.

23 SHIRLEY KEENE: And---.

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1 THELMA HORNE: And they've got a lock on the gate,
2 too.

3 KENNETH OSBORNE: This is not...this is not like
4 these people...my family members here. This is not like they
5 just moved in last month, last year, two or three years ago.
6 Their whole life, their parent's life, their parent's life.
7 I mean, we are talking generations here.

8 SARAH DAY: And the people just want what's theirs.
9 They don't want this big company to come in and take it.

10 KENNETH OSBORNE: And if this...if this area is as
11 vastly rich as all of us here are well aware of, or most of
12 us, then why aren't...why aren't the people that live
13 there...that's where they have to live, why don't they reap a
14 little of these rewards? Instead of the oil companies.

15 MARTHA WILLIAMS: Why is the poverty levels so high
16 in Buchanan County? It is probably one of the wealthiest
17 counties in resources in North America and the poverty level
18 is in the top ten of counties in North America.

19 KENNETH OSBORNE: State your name.

20 BENNY WAMPLER: Could you identify yourself?

21 MARTHA WILLIAMS: Martha Williams, an heir to the
22 Horne estate. We are the fifth generation of poverty that
23 have lived through this. It was the coal operators. They

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1 did it over and over. Now, it has turned over to methane.
2 We don't want our family to have to live in this mess. They
3 want the gas. They don't want anything else.
4 SARAH DAY: They don't want to pay for it.
5 MARTHA WILLIAMS: We don't want them to mine the gas.
6 If they don't want to buy this property, settle with us, then
7 let them pull out and maybe we can place this for bids.
8 Maybe Exxon or somebody could come in and afford to buy it,
9 if Consol can't pay us for it. We don't want to lease. We
10 want to sell. We are for sale. We do not want to live with
11 our children having to play beside a gas well. Think about
12 yourself. Would you let your child go out in your yard and
13 play if your neighbor had a gas well in his? I am sorry. I
14 have looked at this for the last year. I cannot believe what
15 Cheryl took and showed me. There is acid pools. Go out
16 there yourselves. I'm not asking you to take my word.
17 THELMA OSBORNE: A dog fell in one of them and died.
18 MARTHA WILLIAMS: It has killed the fish out of some
19 the rivers, streams---.
20 KENNETH OSBORNE: Well, it is to the---.
21 MARTHA WILLIAMS: I mean, we are not just...we are
22 at the point that we are desperate.
23 KENNETH OSBORNE: Some of the---.

24

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1 MARTHA WILLIAMS: We want you to ask them to either
2 buy us out or do not grant this permit, have them get off our
3 properties and leave these minerals where they are. It needs
4 to be sold...it needs to be refined. We are for sale but not
5 at our family's expense.

6 SARAH DAY: They need to pay a fair price and not
7 want everything.

8 SHIRLEY KEENE: This is a forty acre tract that
9 Linkous Horne heirs own the minerals, forty acres. We have
10 the forty acre tract, we own all the minerals on the forty
11 acre tract.

12 THELMA OSBORNE: And once it would go in escrow, we
13 could never get nothing out of it because they would pull it
14 back out to dig the wells and stuff.

15 MARTHA WILLIAMS: Could I...may I please ask Mr.
16 Arrington a question?

17 BENNY WAMPLER: Yes, ma'am.

18 MARTHA WILLIAMS: Would you quote that figure again
19 for the expense of drilling that gas well?

20 LESLIE K. ARRINGTON: It is two hundred and thirty-
21 three thousand eight hundred and seventy dollars and fifty
22 cents (\$233,870.50).

23 MARTHA WILLIAMS: Two hundred...let me write this
24
--

1 down. Two hundred and thirty-three million---.

2 SHIRLEY KEENE: No, thousand.

3 SANDRA RIGGS: Thousand.

4 LESLIE K. ARRINGTON: No. Two hundred thirty-three

5 thousand.

6 MARTHA WILLIAMS: Thousand.

7 THELMA OSBORNE: It's on your paper.

8 SARAH DAY: Well, they ask for the people to help

9 pay the expenses, too? They are not getting that much

10 anyway. They are always bringing up these expenses. Well,

11 there's a lot of money in this gas and they can afford to pay

12 a fair price and be done with it without dragging the people

13 on and on and taking what they own to pay lawyers. So,

14 that's all I'm going to say, but I hope you will take into

15 consideration of the people and this big company, how they

16 are bringing the people out here and what lawyers cost and a

17 lot of people can't pay the lawyers. They are not getting

18 enough out of it to pay the lawyer. So, I think that

19 something needs to be done about these coal companies running

20 over people and taking what they've got.

21 SHIRLEY KEENE: It would be just---.

22 SARAH DAY: And a lot of them is old people.

23 SHIRLEY KEENE: It would be like me telling you to

24

1 go the grocery and just go in there and pick up whatever you
2 want, you can have it.

3 SARAH DAY: I appreciate (inaudible).

4 SHIRLEY KEENE: And I don't own that to tell you to
5 go in there and do that.

6 KENNETH OSBORNE: Even...even with the escrow
7 accounts and the amount of dollars deposited in there and I
8 mean, what's...what's to protect us? I mean, a million
9 dollars (\$1,000,000) in an escrow account and they come up
10 with figures of two hundred and thirty-three thousand
11 (233,000) for a well, labor, materials, so on and so forth
12 that comes out of the escrow account, and then let's say the
13 escrow account empties out and then they are like...they
14 close down. They go on to something else. We have
15 nothing...what's to protect us? There's nothing there to
16 protect us.

17 SANDRA RIGGS: Well, let me clarify something. The
18 escrow account is set up to receive royalties under the
19 lease. The operator has no access to that escrow account.
20 They make the deposits in there based on the production.
21 One-eighth royalty goes into the escrow account. They can
22 not withdraw money from that escrow account. The operator
23 has to bear the cost of drilling the well, building the

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1 pipeline. Now, if you choose under the pooling order to
2 participate, and that is to be a partner with them in the
3 well, you can pay in your proportionate share of the cost of
4 drilling the well and so forth and be a partner in that well.

5 BENNY WAMPLER: Now, that's an option. That's not a
6 mandated.

7 KENNETH OSBORNE: Okay. But if---.

8 MARTHA WILLIAMS: Mr. Wampler---.

9 SANDRA RIGGS: If you are a leased party, though,
10 the royalties go into the escrow account until it is
11 determined whose they are, coal or gas. The operator has no
12 access to that money and they can not use that money for
13 anything.

14 KENNETH OSBORNE: Okay. So, this figure of two
15 hundred and thirty-three thousand eight hundred and seventy
16 dollars (\$233,870) that's not pertaining to us because we are
17 not a partner?

18 SANDRA RIGGS: Only if you want to participate and
19 be their partner. Then, if you own a ten percent interest in
20 this drilling unit,- you can pay ten percent of that cost and
21 participate with them in the well and derive profits off of
22 it. If you want...however, if you don't make an election, or
23 if you deem to lease, or if you sign a voluntary lease with

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1 them, what you get is like a rental, a royalty. That royalty
2 goes into the escrow account until it is determined who the
3 owner of the coalbed methane is, but they don't have access
4 to the escrowed monies for any of the cost of the...of the
5 building of the well site. Does that help some?

6 KENNETH OSBORNE: Okay. Yes.

7 MARTHA WILLIAMS: Okay. The eighty-seven and half
8 percent that they are taking, we were of the understanding
9 that that was what their money...we were supposed to have
10 like twelve and a half percent, but there is expenses coming
11 out of the twelve and a half percent before it goes into the
12 escrow. This seems pretty unfair to me. You are not getting
13 even a fourth...slightly less than a fourth and then they are
14 going to take part of that back for expenses. That's why we
15 have this poverty level in Buchanan County.

16 THELMA OSBORNE: Well, I don't want no escrow. I
17 just want them to pay me up front for mine.

18 MARTHA WILLIAMS: And let these people get out of
19 here and find them a house that they can live in where they
20 will have water that they won't have to live in Keen Mountain
21 and carry their clothes to Raven to wash them in a laundry
22 mat. Let them buy them a house.

23 THELMA OSBORNE: Her family comes to my house at
24

1 Raven to take a bath and get water. My daughter has to bring
2 her water...her clothes over at my house and wash them. Her
3 water is not even fit to wash in. My granddaughter brings
4 her clothes to my house and wash them and I only have a well.
5 So, they came up yesterday and took samples of my water
6 because they are getting ready to sink a mines under my
7 house.

8 KENNETH OSBORNE: And I think their answer to that,
9 or something, or supposedly answer, they're trying to ship
10 these water tanks in and stuff, if that's the situation, then
11 they are going to have to pay---.

12 MARY KEENE: We don't even got a water tank.

13 KENNETH OSBORNE: ---for the water. There is talk
14 about shipping water tanks in and if that's the case, then
15 they are going to have to pay for the water, which that's
16 causing another...not only...well, it is causing another
17 financial burden on them. I mean---.

18 MARY KEENE: Well, probably thirty more dollars a
19 month and when we never had to buy water before and I could
20 take 'ary of you'uns and you can go to my house and you can
21 look, and you can look at the ditch there where that water
22 comes out from the old mines and you can also have all the
23 water you want to drink. I'll challenge everybody in here
24

1 just to...just to come and get a gallon of water and drink it
2 and bring one load of clothes to my house and wash them.
3 BENNY WAMPLER: Are you saying that---.
4 MARY KEENE: It is ruined.
5 BENNY WAMPLER: --- your water was good water
6 before?
7 MARY KEENE: I had a paper.
8 SHIRLEY KEENE: She had analyzed in '97, it
9 didn't---.
10 MARY KEENE: No, Paul sent them around and had it
11 analyzed.
12 SHIRLEY KEENE: ---well, in '97, the poison was not
13 in the water. They've used the water all the time. Okay.
14 They started---.
15 KENNETH OSBORNE: Give me a second, I think I have a
16 report from the---.
17 SHIRLEY KEENE: ---breaking out and her daughter
18 lost a foot of her hair. Her hair looks like it has been
19 burnt.
20 DALLAS HORNE: Tell me about it. Mine come out,
21 too.
22 MARY KEENE: But this right here was September the
23 11th at 5:30 p.m. and the soap had run through there and we
24

1 did catch that much and he come on and went and caught
2 another part and was checking it out. But that was soap that
3 come through the water line.

4 SHIRLEY KEENE: That was not in there.

5 MARY KEENE: And this was half full and we filled it
6 on up of suds when we filled it up that far. And it stinks,
7 because it stinks plumb outside. You can do a load of
8 laundry with hot water and the scent stinks up the whole
9 house and you can smell it on the porch, and you can have
10 that. He told me he would drink...both of them said they
11 would drink it if I brought it to them...and my property is
12 done damaged.

13 SHIRLEY KEENE: Excuse me. I can't sit no longer.

14 BENNY WAMPLER: That's okay. Thank you for coming.

15 MARY KEENE: And that's why I think that you should
16 take consideration to our people before you give them a
17 permit and you should let everybody...let you know what's
18 going on in Buchanan County. I'm not just checking for just
19 me. It is our whole Buchanan County area that is getting
20 ripped off.

21 BENNY WAMPLER: There is some other folks there. I
22 don't want to prevent anybody from saying anything.

23 MARY KEENE: The other contract is worse than that.

24

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1 THELMA OSBORNE: Brenda, you want to come here
2 because I've done said my piece.

3 BRENDA JUSTUS: The only thing I want to say, I do
4 have a sand filter, but---.

5 BENNY WAMPLER: Would you give us your name, please?

6 BRENDA JUSTUS: I'm Brenda Justus and I am one of
7 Linkous' heirs. I do have a sand filter, but they told me
8 the poison would go right through my sand and it has already.
9 So, I don't know what to do about no water or anything else.
10 But we are on the same well. We've lived there since...I've
11 lived there since the 1970s. We've never had any water
12 problems, until now.

13 BILL HARRIS: Excuse me a second...I keep hearing
14 the word poison. What are we referring to? Are we talking
15 about---?

16 MAX LEWIS: Some kind of chemical.

17 BRENDA JUSTUS: They told us some kind of name when
18 they analyzed it.

19 UNIDENTIFIED SPEAKER: Hydrochloric Acid.

20 MARY KEENE: Did you give me my water papers back?
21 (No audible response.)

22 MARY KEENE: I'll let you read it.

23 UNIDENTIFIED SPEAKER: From the chemicals that was
24
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1 put in the well when they are fraced.

2 DALLAS HORNE: I would like to follow up on this
3 water deal. Last year, October 12th, the Gas Board, the
4 magistrate, sent a man to analyze my water, which I've been
5 hauling my drinking water for four year or longer. They sent
6 a man and I got drowned getting him a sample direct out of my
7 well and I've never today, this being the 15th day of
8 September, almost a year ago, that I've never received that
9 report back. Somebody is a dilatory. They're not doing
10 their work. They are going over people, doing what they want
11 to do without their regards. Right now, as today, when I get
12 back, I will take Consolidated Coal Company and Claude Morgan
13 with a warrant for trespassing on my property and destruction
14 of personal property. Then, if it don't settle in Buchanan
15 or the State of Virginia, then we go to the Supreme Court. I
16 am ready. I have got the financial funds to do so and I'm
17 going to see this out. Just see how much rights they have
18 got to walk over people in Buchanan County. They are a big
19 company. I am a big man in flesh and I'm not no dummy, but I
20 will see it through Court. It won't just stop in Grundy or
21 Tazewell, but it will go on up. It's going to go to the top.
22 There is going to be a line drawed. It's a shame that they
23 will come in and say they've got all of these rights, then

24

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1 you mention to them what's in that surface deed, "Well, I'll
2 have to go back and look at it." In my surface deed, it says
3 that no merchantable...they're no profitable timber be cut.
4 All right. They are going to make a gas site...gas well
5 site, they cut my oak timber. Twenty-four, thirty inches
6 through the butt, is that valuable timber? Straight timber.
7 Is that merchantable timber? Who gives them the
8 authority...them to cut my merchantable timber if I don't
9 tell them? They take it on theirself and this will be
10 settle. It will go...it will go to Supreme Court, if
11 necessary.

12 MARY KEENE: We would like a card from each one of
13 you that we was proved that you were on the Board when we
14 have to go, or your names on a piece of paper.

15 MARTHA WILLIAMS: Mr. Wampler, may I make another
16 statement? You were talking about---.

17 DALLAS HORNE: This is what they cut off our
18 property. You can see it. Them was took yesterday evening.

19

20 MARTHA WILLIAMS: You were speaking about the water
21 being bad in this area, which that's true, it is now, but I
22 just want you to know one thing. We all grew up drinking
23 this water. There was springs and wells and, you know, I

24

--

1 mean, we've...off and on, we've lived on and some of them
2 have never left the property. They have all lived there all
3 of their lives, some of our family members. We don't live
4 there now, but we grew up drinking this water. The water has
5 not always been like this.

6 BENNY WAMPLER: Well, as I said, I wasn't trying to
7 dispute that. I was just saying that---.

8 MARTHA WILLIAMS: No, sir. I understand that. I
9 just wanted to make you aware that...that it---.

10 KENNETH OSBORNE: The matter at hand, we are not
11 trying to be unreasonable, but I mean I think we deserve a
12 fair offer. This...this...the force pooling and all of this,
13 it just appears to be a time lapse thing. We continue to
14 come down here for these hearings, which I understand it's
15 required, but I mean, in the bottom line...the bottom line
16 is, why...why not just to get rid of us, just buy it all out?
17 Make us a decent offer, so everybody can benefit from it.
18 They can get out of there, resume their life with good water,
19 why not just buy us out and make us a decent offer instead of
20 this continuing circle that's getting nowhere?

21 MARTHA WILLIAMS: Well, with the damage that's done,
22 some of the people don't have two or three years to wait for
23 a royalty check, which may never come anyway.

24

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1 BENNY WAMPLER: Well, as to the water, any damage
2 that's done after July 1st, 1998 from drilling...from a gas
3 and oil operation, it is required that water be replaced.
4 That was...provision wasn't in effect until the General
5 Assembly made that change last year and it is in effect now.
6 Drilling operations after that date, after July 1, 1998, the
7 operator is responsible for repair or replacement of that
8 provision. It has certain limitations, wells within certain
9 distances and things like that. You know, there...this
10 Board, or this department, is not able to give you things
11 that are not in law and regulation. You know, the kinds of
12 things that you are asking, you know, to say is that a
13 reasonable thing to do. Really, it has to be something
14 that's between you and the company or the Courts, you and the
15 company or however that gets finally resolved. You know,
16 that's the dilemma.

17 MARY KEENE: Yeah, but the company don't
18 (inaudible). They don't come...the only time we see any of
19 the company is when we come here to the Board meetings.

20 BENNY WAMPLER: Well, we---.

21 MARTHA SMITH: My name is Martha Smith and I'm a
22 heir of Linkous Horne. I am Linkous Horne's daughter. So, I
23 wanted to say...I want to speak a little bit, not too much,
24

1 but...I don't want to take up too much time. But when they
2 go and drill these wells and they leave them, they leave
3 these big slush ponds open till any kid, anybody, horse, cow
4 or whatever can fall in them. They...I guess, they're about
5 as long as from here out to the end and it's just left open
6 so anything can get in it. It's never covered. Whenever
7 they go in and they buy a little piece of property and when
8 they get finished, why, the place where they live or whatever
9 the rest of the property, it's no good for anything. It's
10 not even fitting to live on. But you people wouldn't know it
11 unless you seen it. You all would have to see it to believe
12 what kind of shape Buchanan County is.

13 MARTHA WILLIAMS: It's an eyesore. It is an
14 absolute eyesore.

15 MARTHA SMITH: It is a eyesore. It really is a
16 eyesore to just go around and maybe if you don't want to take
17 the time, you know, to stop and look...you can take a video
18 camera and you can take pictures of it and show it on the TV.
19 I mean, you would not believe how Buchanan County has
20 been---.

21 MARTHA WILLIAMS: Abused.

22 MARTHA SMITH: ---mistreated and abused of the
23 property and the people's homes. And I've lived there...I'm
24

1 sixty-three years old and I grew up there as a little girl.
2 It is not the same place. It is ridiculous to go there and
3 look at it, and then our right of way, they've put a gate
4 over it. No trespassing. You know, you can't go through it.
5 They put a lock on it. So, there was a little dispute come
6 up. They called Consol and told them they give....the police
7 officer called them and told them to get there and move the
8 gate. They gave them twenty minutes to do so. So, they
9 waited. They did not come and move the gate. So, the State
10 Trooper called them. They still did not move the gate and
11 it's still there. So, what can you do about a gate and
12 moving it off of your own right of way. They have bought the
13 right of way off of another person. They didn't buy it off
14 of us.

15 BENNY WAMPLER: Bought your right of way?

16 MARTHA SMITH: Yes. Yes, sir.

17 BRENDA JUSTUS: And we can't seem to locate a key no
18 matter where we go. Somebody else has got the key.

19 BENNY WAMPLER: What is the access to? What
20 access...yes, ma'am.

21 MARTHA SMITH: On the right of way to the...to where
22 they are going to drill the well on our...where we own the
23 mineral rights.

24

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1 BENNY WAMPLER: Okay.

2 MARY KEENE: Right here is the---.

3 MARTHA SMITH: But it is on our right of way.

4 MARTHA WILLIAMS: Well, it is not a highway or

5 anything, but it is like a little road that we...that we

6 should be able to use because our grandfather reserved them

7 and then my uncle Thurman was...a couple of these are his

8 daughters.

9 MARY KEENE: That's the reason that contract was

10 wrote with the twenty-five---.

11 MARTHA SMITH: Now, how would a person be able to

12 get the gate moved when the county police officer asked them

13 to move the gate and the State Trooper told them to move the

14 gate?

15 BENNY WAMPLER: What's the story on the gate, Les?

16 (No audible response.)

17 BENNY WAMPLER: Do you know anything about the gate?

18 MARK SWARTZ: No.

19 LESLIE K. ARRINGTON: I'm not...if it is the S-36

20 well that she is referencing, which I'm not sure...is it the

21 S-36 out there behind---?

22 MARY KEENE: Yeah, it would be on that.

23 MARTHA SMITH: Yes.

24

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1 LESLIE K. ARRINGTON: Is it?
2 MARTHA SMITH: Yes.
3 LESLIE K. ARRINGTON: I know nothing about that.
4 Sorry.
5 MARTHA SMITH: Well, the State Trooper called the
6 main office there and they were supposed to have called back.
7 So, he called several times. But he did get in contact with
8 Consol and they were supposed to move the gate. As of now,
9 it has not been moved and we have been threatened if we move
10 the gate.
11 (Public discussion between Mark Swartz and Leslie
12 K. Arrington.)
13 MARTHA SMITH: And we can't get up through...we
14 can't even travel the road.
15 LESLIE K. ARRINGTON: Benny, I know nothing about a
16 gate out there on S-36 because to my knowledge we haven't
17 done anything yet.
18 MARY KEENE: Now, you core drilled up there about a
19 year ago and when you cored drilled, you put a gate up as
20 you'uns come back out.
21 MARK SWARTZ: Well, we wouldn't core drill.
22 LESLIE K. ARRINGTON: We don't core drill.
23 MARY KEENE: Yeah, there was a core drill up there
24

1 and they said that it was requested by Marie and Arland
2 Osborne that it was to be put up. That's what they told us,
3 that they requested it is the reason why it was put up.

4 BENNY WAMPLER: Are you saying that Consol requested
5 it?

6 MARY KEENE: No, Arland and Marie Osborne. Which
7 the right of way in the deed tells you...and that it is our
8 right of way.

9 SARAH DAY: That's who they bought the right of way
10 off of.

11 MARY KEENE: They have bought the right of way off
12 of Beulah and Willard Osborne to go down to that well site
13 and they bought the well site off of them, which you know the
14 right of way is ours.

15 MARTHA SMITH: So, we do...we do want the gate moved
16 off of the right of way.

17 BRENDA JUSTUS: There is no fence coming on either
18 side. It is just a gate.

19 MARTHA SMITH: And we've tried to get that through
20 to them before they give the permits, but we couldn't..we
21 couldn't get through to nothing and we've come down here all
22 of these trips. But I have never spoke. But they've
23 all...I've told them all to bring the gate up. We would have
24

1 it moved off the right of way because they paid Arland and
2 Marie Osborne for the right of way that didn't belong to
3 them.

4 THELMA OSBORNE: And Beulah Osborne.

5 MARY KEENE: And then here is the deed that belongs
6 to Rebecca Clifton and Nora Keene. Bertha Goodman is on the
7 papers and we've told them about this, but they haven't took
8 Bertha off of this and it is theirs.

9 MARTHA SMITH: Now, Mary...Mary Osborne, she made
10 couple of trips down here because she thought she was going
11 to have to pay the money back that they had paid for the
12 right of way. So, she asked this fellow right here if she
13 would have to pay it back and he told her no. I heard him.
14 I was right...right with her.

15 MARTHA WILLIAMS: Mr. Fulmer also told her she
16 wouldn't have to pay it back.

17 MARTHA SMITH: Told her would not...they would not
18 have to pay it back.

19 SANDRA RIGGS: Well, that would be a matter of
20 contract between the parties. That wouldn't have to do with
21 the State. I mean, buying real...an interest in real
22 property would depend on whatever their contract was.

23 THELMA OSBORNE: But you all need to know what they
24

1 are doing.

2 MARTHA SMITH: Yeah, that's the reason why we are
3 telling you all now, because you all was not here whenever
4 they did that. But they have bought our right of way and
5 paid somebody else for it and I really don't think that is
6 right. If I was to do something like that, I would think I
7 was wrong and I would be wrong, and I would make it right
8 with them because whenever we leave from here and we go up
9 yonder, we are all going to be judged by the same judge and
10 we are going to be right, if we go up there, aren't we?

11 BENNY WAMPLER: That's right.

12 MARTHA SMITH: And that's just the way I want to
13 leave. I want to be right.

14 BENNY WAMPLER: Me, too.

15 KENNETH OSBORNE: Back to the issue, it just seems
16 like that it would be a lot more profitable for them to just
17 go ahead and make a decent offer to buy it out and everybody
18 wouldn't be sitting here going through this over and over.

19 BENNY WAMPLER: Are you wanting to sell the surface,
20 the mineral. or all of it?

21 KENNETH OSBORNE: We want to sell the whole thing.

22 MARTHA WILLIAMS: We want to sell everything if they
23 are going to stay there and drill.

24

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1 SARAH DAY: The minerals.

2 MARTHA WILLIAMS: Part of the problem---.

3 BENNY WAMPLER: The forty acre tract, is that right?

4 The whole forty acre tract is what you are saying?

5 MARTHA WILLIAMS: Sir, some of the problem with this

6 is that they have actually bought minerals from people that

7 don't own them, that's why they are controlling like ninety-

8 eight like such and such percent.

9 BENNY WAMPLER: Well, here again, I mean, I don't

10 know what's recorded in the courthouse and all of that.

11 MARTHA WILLIAMS: We do. We have...we have been

12 there. They have been there as well. We see them there

13 sometimes when we go. So...I know you don't have the control

14 over whether or not they get the permit, but we are asking

15 that you recommend that they do not keep handing out these

16 permits until they can make some kind of a decent offer

17 because the hardships that our family are bearing are too

18 great. This is really causing human suffrage.

19 THELMA OSBORNE: And there is four of us that owns

20 the property on the place where the minerals is on. There is

21 four that owns the property.

22 MARY KEENE: And there is three of us on that one

23 well.

24

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1 MARTHA SMITH: And I appreciate you all hearing me
2 out and if there is some way that that gate can be moved, I
3 appreciate it. Thank you.

4 KENNETH OSBORNE: I think that's about all we've got
5 to say.

6 MARTHA WILLIAMS: Thank you very much.

7 BENNY WAMPLER: Thank you. I hope---.

8 MARY KEENE: Do you got my contracts?

9 BILL HARRIS: I passed everything back over. Is
10 that the one that was stapled to the---?

11 MARY KEENE: Yeah, to the envelope.

12 BILL HARRIS: Yeah, I passed that back up.

13 MARY KEENE: The next thing is what are you going to
14 do about my water? Do without water till next year?

15 BENNY WAMPLER: Well, you know, I tell you...you
16 said the well was drilled on your property in May.

17 MARY KEENE: When they drilled that one...yeah.

18 BENNY WAMPLER: And the replacement provision did
19 not go into effect until July.

20 MARY KEENE: Cleared theirsself again, huh?

21 BENNY WAMPLER: Well, you know, I'm just talking
22 about something that we can do now.

23 MARY KEENE: Are you going to take this?

24

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1 BENNY WAMPLER: I don't need it.

2 MAX LEWIS: Give it to them over there and let them
3 drink it.

4 MARY KEENE: Well, they all ought to drink it
5 (inaudible) Buchanan County.

6 THELMA OSBORNE: They told them to not let the kids
7 drink the water.

8 BENNY WAMPLER: Well, our staff did that. I mean, I
9 don't think any of you should drink it. I'll tell you that
10 right now.

11 MEMBER OF THE AUDIENCE: They'd bring it right back.

12 MARY KEENE: I love...I love Buchanan County and I
13 love living in Buchanan County because we've got good people
14 in Buchanan County.

15 BENNY WAMPLER: Right.

16 MARY KEENE: And I don't like other people coming in
17 my county and destroying what I've got. And I need the water
18 and I need it bad and I need it now. As of now, I needed it
19 yesterday.

20 BENNY WAMPLER: We are going to continue to try to
21 help you get water up there.

22 MARY KEENE: I need a tank and somebody else to pay
23 for it because thirty dollars (\$30) a month water bill and
24

1 twenty-five more dollars on my oil bill this winter and them
2 pumping my gas out for four dollars and sixteen cents
3 (\$4.16).

4 BENNY WAMPLER: I understand.

5 KENNETH OSBORNE: Mr. Wampler?

6 MARY KEENE: There's fifty dollars (\$50) for the
7 county or the government and we get four dollars and sixteen
8 cents (\$4.16) back. That ain't right.

9 KENNETH OSBORNE: Did you pass that sheet down that
10 I handed you a minute ago on the fraction drilling?

11 MARY KEENE: And I'm getting angry over it.

12 BENNY WAMPLER: She may have it.

13 KENNETH OSBORNE: Okay. She might. I just wanted
14 to check.

15 BENNY WAMPLER: I have passed everything that I've
16 had back up that way.

17 SANDRA RIGGS: I don't have anything here.

18 KENNETH OSBORNE: Okay.

19 BENNY WAMPLER: I think she probably has it.

20 KENNETH OSBORNE: Okay. And again, thank you all
21 for listening to us and that's---.

22 BENNY WAMPLER: Tom, do you have a list of the Board
23 members and their address...I've got the names there on this
24

1 form.

2 TOM FULMER: The names. I don't have the addresses.
3 I talked to him earlier. He is going to drop by the office.
4 We do have that.

5 BENNY WAMPLER: Okay. You've got...okay. Just to
6 make sure...to make sure of that. Did we hear from everyone?

7 MEMBER OF THE AUDIENCE: I think so.

8 BENNY WAMPLER: Okay.

9 CLIFFORD OSBORNE: I am Clifford Osborne. I live on
10 that property there right below where they want to drill the
11 well.

12 BENNY WAMPLER: Would you state your name, again,
13 please?

14 CLIFFORD OSBORNE: Clifford Osborne.

15 BENNY WAMPLER: Yes.

16 CLIFFORD OSBORNE: If they drill that well there and
17 get up there with a dozer, they will wash me off when it
18 rains, the way the land lays. You can go look at it and
19 that's...I mean, if they want it, why don't they just make a
20 settlement and buy it.

21 BENNY WAMPLER: Has it been permitted already, the
22 well you are speaking of?

23 CLIFFORD OSBORNE: No. No, it (inaudible). That's
24

1 the one they are trying to get a permit for.

2 SARAH DAY: No, they've done got the permit.

3 TOM FULMER: It has been permitted.

4 MARTHA WILLIAMS: They've got the permit.

5 BENNY WAMPLER: It has been?

6 CLIFFORD OSBORNE: They've already got the permit.

7 SARAH DAY: Yeah.

8 CLIFFORD OSBORNE: Okay. Well, who issued the

9 permit?

10 TOM FULMER: I did.

11 CLIFFORD OSBORNE: You did?

12 TOM FULMER: Yes.

13 CLIFFORD OSBORNE: Well, can I have your...I would

14 like to get all of your'uns name and phone number and

15 addresses on a piece of paper. I need that before I leave

16 here today.

17 BENNY WAMPLER: Well, we don't have it here, but it

18 is in Mr. Fulmer's office here in Abingdon.

19 CLIFFORD OSBORNE: Oh, okay.

20 BENNY WAMPLER: Okay. We will get that information

21 to you.

22 CLIFFORD OSBORNE: But we do own the right of way.

23 We are going to keep the right of way. The right of

24

1 way...the fifteen foot right---.

2 BENNY WAMPLER: Sit down there and talk to us a
3 minute.

4 CLIFFORD OSBORNE: ---they ain't going to get on
5 the right of way unless they buy the right of way because
6 that belongs to us. The way that ridge runs all the way down
7 the old road. It washed out in a (inaudible). It comes
8 right down below my house. I've got a ten inch pipe running
9 through my yard now and when they get up there with a dozer
10 and get to dozing around and get all that water coming down
11 that way, then I don't stand a chance.

12 BENNY WAMPLER: Understand one thing. The issuance
13 of a permit doesn't grant property rights to people. The
14 issuance of the permit describes the activity that's going to
15 take place and what they have to do to control runoff,
16 erosion and how they have to restore the land when it's
17 finished. It doesn't convey something that the Commonwealth
18 doesn't have to begin with.

19 CLIFFORD OSBORNE: All right. Let me ask you a
20 question. Aren't there a law stating in the State of
21 Virginia if you dig a whole four foot deep that you've got to
22 have a fence around it?

23 BENNY WAMPLER: Not covering gas and oil operations.

24

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1 No, sir. I don't know. There may be something else---.

2 CLIFFORD OSBORNE: I'm wasting my time.

3 BENNY WAMPLER: I'm sorry.

4 CLIFFORD OSBORNE: I said, I'm just wasting my time.

5 We will just...we will just battle it out some other way.

6 BENNY WAMPLER: Well, I mean, I just want you to

7 understand it isn't the gas and oil law or regulation.

8 That's not---.

9 CLIFFORD OSBORNE: Well, anything...any...if I go

10 over there and dig a whole four foot deep and somebody falls

11 in it and drowns, then they can come along and sue me. But

12 you can go around Buchanan County and they've got sediment

13 ponds all over Buchanan County with nothing over it and it's

14 been there for six months and it ain't even reclaimed.

15 MARTHA WILLIAMS: I saw them in January.

16 SARAH DAY: And they are using our right of way that

17 they bought off of the other people and we have told them

18 every time we have come over here and they continue to do it,

19 for these wells.

20 BENNY WAMPLER: Do you have anything further?

21 MARK SWARTZ: Just two comments. We take every

22 precaution in the drilling process to protect ground water.

23 I mean, the regulations...I realize this isn't really on the

24

1 table with this Board, but the regulations and the statute
2 and requirements with regard to water protection strands, we
3 take those obligations seriously. We install them. We
4 cement them back to the surface. There are a lot of problems
5 with water in these counties and we've talked some about
6 that. But in terms of our obligation to protect water in the
7 area of our wells, we take that obligation seriously and the
8 wells are engineered to protect the ground water. That's my
9 one...one comment.

10 Second comment, these pits for drilling fluids and
11 materials produced during drilling are ultimately reclaimed.
12 We reclaim them all. We don't abandon them. We can't.
13 Essentially, what we have had on an ongoing basis with these
14 folks and I wish it was just them, but with others as well,
15 is a disagreement as to value and a disagreement as to
16 timing. I mean, they have a less than a one and half percent
17 interest in this unit. There is a dispute between them and
18 the Hurt/McQuire heirs as to who owns the coal. They claim
19 the coal, but the Hurt/McQuire heirs claim that they own the
20 coal. So, I mean, these funds would have to be escrowed.

21 SARAH DAY: The twenty-five acres should be more
22 than one and half percent.

23 MARK SWARTZ: There is a...but there is a dispute as
24

1 to value and there is a dispute as to timing and there is no
2 doubt about that. They think that they hold their property
3 in terms of the gas interests and the mineral interests more
4 dear than my client is willing to pay. Generally speaking,
5 we don't acquire surface. We don't buy houses. We don't buy
6 homes and just to kind of respond in a summary sense to the
7 issues that they've raised, we attend to our responsibilities
8 in regard to ground water. We reclaim our facilities
9 ultimately and just as they have a right to value their
10 interest, we have a right to value ours and we clearly are at
11 loggerheads as to what the value of those interests are and
12 we don't have an agreement.

13 MARTHA WILLIAMS: May I respond to that?

14 BENNY WAMPLER: Well, go ahead.

15 MARTHA WILLIAMS: Sir, don't you think a human life
16 is more valuable than a few million gas...gallons of gas?

17 (No audible response.)

18 MARTHA WILLIAMS: See, we are not...we are not just
19 talking...I know your company don't buy houses, surface and
20 all of that.

21 MEMBER OF THE AUDIENCE: Some of them, they do.

22 MARTHA WILLIAMS: That's why we are asking...that's
23 why we are here today. We are telling you this is too much
24

1 of a hardship on our family members. If your company is not
2 willing to pay for this, then get off the property. Give us
3 the option to find somebody who can. I understand what you
4 are saying, but I'm speaking for my family members. This is
5 their lives.

6 MARK SWARTZ: I understand where you are---.

7 MARTHA WILLIAMS: This water is poison. They should
8 not have to drive their cars forty-eight miles to get
9 drinking water. Thirty miles to wash their clothes. This is
10 very...just so your company can get richer and bigger and a
11 bigger giant than what they are now.

12 SARAH DAY: The way it is set up, it is like even if
13 it goes into escrow, you just got to keep fighting and
14 fighting to get it.

15 MARTHA WILLIAMS: We are never going to get anything
16 out of it and you know that. Our grandchildren may get
17 something.

18 SARAH DAY: Well, if it keeps going like it is now
19 the...there won't be no houses in Buchanan County.

20 MEMBER OF THE AUDIENCE: Well, it will be there, but
21 there won't be no people.

22 SARAH DAY: There will not be nobody. It will just
23 be a dark out. The houses will be ruined.

24

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1 MARTHA WILLIAMS: If you have driven through...if
2 you have driven through Buchanan County, you know what the
3 poverty level is and if you want...if you want to come with
4 me, I can show you some open mine sites and how it got this
5 way.

6 MARTHA SMITH: But we tried to fight this out before
7 they got a permit, but we couldn't do it. They wouldn't
8 listen to us.

9 MARTHA WILLIAMS: That's why that...that's why we
10 are asking that these pit permits be denied until we can work
11 out some way...some understanding that everybody can live
12 with.

13 MARTHA SMITH: All of the water is...the chemicals
14 that they are putting in the water...in the wells that they
15 are drilling, all the chemicals and things that go in there.
16 So, it is ruining everybody's water. It is destroying their
17 homes. Their floors is breaking through. The walls is
18 cracking down with all of this stuff that they are doing. I
19 mean, people just has just got to move out of their homes.
20 They don't have no place else to go.

21 MARTHA WILLIAMS: Well, we feel like---.

22 MARTHA SMITH: But they are not getting anything out
23 of it.

24

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1 MARTHA WILLIAMS: We feel that it is time for
2 somebody to make a stand. We grew up watching this and we
3 are just tired of it. Our family has suffered many hardships
4 down through the years. We grew up in poverty because they
5 took the coal from my grandpa and they didn't pay him for it.
6 I...I don't know. I think we have better values. This is
7 America where we honor the flag. This is the land of milk
8 and honey except it just depends on who has the milk and the
9 honey or who has the money.

10 BENNY WAMPLER: Well, I'm sure not going to promise
11 you something, you know, I can't deliver you.

12 MARTHA WILLIAMS: I am not asking you to promise me.
13 I am just merely wanting to state the facts. I want you to
14 know what we are dealing with and what you have to deal with.

15 SARAH DAY: We would like to get it changed until
16 this coal company don't have all the rights. That's what we
17 are talking about. The coal company has got all the rights
18 and the people just have to keep fighting and keep fighting.
19 It has been...what they've got. plus what they would get out
20 of it, to keep fighting them back and that shouldn't be. If
21 they get this, why, they should pay for it.

22 MARTHA SMITH: Once they get a permit, though, they
23 can go on in. That permit. See, they can go on in and then
24

1 that's what tears up people's homes, their water, it damaged
2 the whole place. But Buchanan County is not like it was when
3 I was a little girl. I mean, it is...it is a sore eye to
4 look at. It is ridiculous and nobody wouldn't believe it
5 unless they just went, maybe for a day, and go over and look.
6 You would think, Lord have mercy, how would this...how would
7 this place become such a unlivable place and it used to be
8 beautiful. But it isn't any more. But I appreciate you all.
9 I really do.

10 BENNY WAMPLER: Well, thank you for...thank you for
11 coming and we've...you know, I know as far as the record
12 goes, the recorder typically has who said what and when and
13 all that and I've not made you come up here every time you've
14 talked and state your name and all those kinds of things, but
15 we will have a recording as best as she could pick up with
16 what went on, but it won't say who said what and all of those
17 kinds of things like we usually do. I think that, you know,
18 the message that you wanted to get across, you've had an
19 opportunity to do that and that's what you wanted to make
20 sure that the Board heard, as I understood you, and we
21 appreciate that very much.

22 MARTHA SMITH: That's right.

23 MARTHA WILLIAMS: Yes, sir. That's true.

24

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1 BENNY WAMPLER: Thank you. Any other questions from
2 members of the Board?
3 (No audible response.)
4 BENNY WAMPLER: Did you have anything further on
5 this, Mr. Swartz?
6 MARK SWARTZ: No.
7 BENNY WAMPLER: Do we have a motion?
8 (No audible response.)
9 BENNY WAMPLER: Do you want to summarize your
10 request to the Board, Mr. Swartz?
11 MARK SWARTZ: We are requesting that the Board pool
12 an eighty acre Oakwood I unit. The unit is S-35. There are
13 three groups of respondents having an interest to be pooled
14 of roughly one point four percent in the unit and that is our
15 request.
16 BENNY WAMPLER: Do I have a motion?
17 (No audible response.)
18 BENNY WAMPLER: Is there a motion?
19 (No audible response.)
20 BENNY WAMPLER: With no motion.
21 (The members discuss things among themselves.)
22 BENNY WAMPLER: I'll just ask you to poll the Board.
23 Just call their names.
24

1 (The Court Reporter polled each member of the
2 Board. Responses are: Richard Gilliam - Approve; Max Lewis
3 - abstain; Benny Wampler - Approve; Bill Harris - Approve.)

4 BENNY WAMPLER: Okay. The application is approved.

5 The next item on the agenda is a petition from
6 Equitable Resources Energy Company for pooling of a coalbed
7 methane unit identified as VC-2356, docket number GOB-98-
8 0915-0682, and we'd ask the parties that wish to address the
9 Board in this matter to come forward at this time.

10 (A discussion about a break. Decided to keep
11 going. Everyone gets organized to continue.)

12 BENNY WAMPLER: Are you ready?

13 JIM KISER: Ready.

14 BENNY WAMPLER: If you will, just identify yourself.

15 JIM KISER: Mr. Chairman and members of the Board,
16 Jim Kiser on behalf of Equitable Resources Energy Company.
17 Our witnesses in this first matter and the matters that
18 follow will be Mr. Dennis Baker and Mr. Bob Dahlin. I'd ask
19 that they be sworn at this time.

20 (All witnesses are sworn.)

21 BENNY WAMPLER: The record will show there are no
22 others. You may proceed.

23

24

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1 Fork coalbed gas field?

2 A. Yes.

3 Q. Okay. Now, prior to filing the application,
4 were efforts made to contact each of the respondents listed
5 in Exhibit B in an attempt made to work out an agreement
6 regarding the development of the unit?

7 A. Yes, it was.

8 Q. Does Equitable own drilling rights in the
9 unit involved here?

10 A. Yes, we do.

11 Q. What is the interest of Equitable in the gas
12 estate in the unit?

13 A. The interest leased to Equitable in the gas
14 estate is 100 percent.

15 Q. Okay. And what is the interest of Equitable
16 in the coal estate within the unit?

17 A. The interest leased to Equitable in the coal
18 estate is 85.36 percent.

19 Q. Now, are all the unleased parties set out in
20 the Revised Exhibit B that you've submitted to the Board?

21 A. Yes, that's correct.

22 Q. And subsequent to the filing of the
23 application, did you continue to attempt to reach an
24

1 agreement with all respondents listed at the Revised Exhibit
2 B?

3 A. Yes.

4 Q. As a result of those efforts, were you able
5 to obtain any additional leases?

6 A. No, we were not.

7 Q. As such, Mr. Baker, what was the reason for
8 submitting the Revised Exhibit B?

9 A. The Revised Exhibit B has one additional
10 name that was inadvertently left off of the Exhibit B in
11 filing with the application. The individual is shown on page
12 six, Conrad Beam. It was discovered in a matter of a couple
13 of days. Timely notice was sent and Revised Exhibit showing
14 his name was furnished.

15 Q. So, Mr. Baker, we do have timely notice of
16 Mr. Beam and a green card on file showing that he received
17 the application package?

18 A. That is correct.

19 Q. Okay. Now...so, now the current state of
20 the drilling rights within the unit in the gas estate is 100
21 percent leased and 14.64 percent of the coal estate remains
22 unleased?

23 A. That is correct.

24

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1 Q. Were diligent...were reasonable and diligent
2 efforts made, and sources checked to identify and located any
3 unknown heirs, including primary sources such as deed
4 records, probate records, assessor's records, treasurer's
5 records and secondary sources such as telephone directories,
6 city directories, family and friends?

7 A. Yes.

8 Q. In your professional opinion, was due
9 diligence exercised to locate each of the respondents named
10 in the Revised Exhibit B?

11 A. Yes, it was.

12 Q. And are the addresses set out in Revised
13 Exhibit B to the application the last known addresses for the
14 respondents?

15 A. Yes, it is.

16 Q. Are you requesting this Board to force pool
17 all the unleased interest listed in revised Exhibit B?

18 A. Yes, we are.

19 Q. Mr. Baker, are you familiar with the fair
20 market value of drilling rights in the unit involved here and
21 in the surrounding area?

22 A. Yes, I am.

23 Q. Could you advise the Board as the what those
24

1 are?

2 A. A five dollar (\$5) a per acre consideration,
3 one-eighth of eight-eighth royalty, and a five year term.

4 Q. Did you gain this familiarity by acquiring
5 oil and gas leases, coalbed methane leases and other
6 agreements involving the transfer of drilling rights in the
7 unit involved here and in the surrounding area?

8 A. Yes.

9 Q. In your professional opinion, do the terms
10 you have testified to represent the fair market value of and
11 the fair and reasonable compensation to be paid for drilling
12 rights within this unit?

13 A. Yes.

14 Q. Now, as to the respondents listed in at
15 Revised Exhibit B who have not voluntarily agreed to lease,
16 do you recommend that they be allowed the following options
17 with respect to their ownership interest within the unit -
18 one, participation; two, a cash bonus of five dollars (\$5)
19 per net mineral acre plus a one-eighth of eight-eighths
20 royalty; three, in lieu of a cash bonus, a one-eighth of
21 eight-eighths royalty share in the operation of the well on a
22 carried bases as a carried operator under the following
23 conditions: Such carried operator shall be entitled to the

24

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1 share of production from the tracts pooled accruing to his
2 interest exclusive of any royalty or overriding royalty
3 reserved in any leases, assignments thereof or agreements
4 relating thereto of such tracts, but only after the proceeds
5 applicable to his share equal, (A) - Three hundred (300)
6 percent of the share of such costs applicable to the interest
7 of the carried operator of a leased tract or portion thereof;
8 or (B) - Two hundred (200) percent of the share of such costs
9 applicable to the interest of the carried operator of an
10 unleased tract or portion thereof?

11 A. Yes, that's correct.

12 Q. Do you recommend that all elections be made
13 in writing by respondents and sent to the applicant at
14 Equitable Resources Energy Company, Eastern Region, P. O. Box
15 1983, Kingsport, Tennessee 37662, Attention: Dennis R.
16 Baker, Regulatory?

17 A. Yes.

18 Q. And should this be the address for all
19 communications with the applicant concerning the force
20 pooling order?

21 A. Yes.

22 Q. Do you recommend that the order provide that
23 if no written elections is properly made by a respondent,

24

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1 then such respondent shall be deemed to have elected cash
2 royalty option in lieu of participation?

3 A. Yes.

4 Q. And should all unleased respondents be given
5 thirty (30) days from the date of the recording of the Board
6 order to file their written elections?

7 A. Yes.

8 Q. If an unleased respondent elects to
9 participate, should they be given forty-five (45) days to pay
10 the applicant for the respondent's proportionate share of
11 well cost?

12 A. Yes.

13 Q. Does the applicant expect the party electing
14 to participate to pay in advance that parties share of
15 completed well costs?

16 A. Yes, we do.

17 Q. Should the applicant be allowed a hundred
18 and twenty (120) days following the recording date of the
19 Board order, and thereafter, annually on that date, until
20 production is achieved to pay or tender any cash bonus
21 becoming due under the order?

22 A. Yes.

23 Q. Do you recommend that the order provide that
24

1 if the respondent elects to participate, but fails to pay
2 their proportionate share of well costs satisfactory to the
3 applicant for payment of such costs, then their election to
4 participant should be treated as having been withdrawn and
5 void and such respondent should be treated as if no
6 election...initial election had ever been filed under the
7 order?

8 A. Yes.

9 Q. Do you recommend that the order provide that
10 where a respondent elects to participate, but defaults in
11 regard to the payment of well costs, any cash sum becoming
12 payable to such respondent be paid within sixty (60) days
13 after the last date on which such respondent could have paid,
14 or made satisfactory arrangements for the payment of those
15 well costs?

16 A. That's correct.

17 Q. Mr. Baker, do we have a conflicting claimant
18 situation in this unit?

19 A. Yes, we do.

20 Q. So, do you recommend that the operator pay
21 into an escrow account created by this Board into which all
22 cost or proceeds attributable to the conflicting interest
23 shall be held for respondent's benefit until such funds can
24

1 be paid to party by order of the Board or until the title
2 defect or conflicting claim is resolved to operator's
3 satisfaction?

4 A. Yes.

5 Q. And who should be named the operator under
6 any force pooling order?

7 A. Equitable Resources Energy Company.

8 JIM KISER: Nothing further of this witness at this
9 time, Mr. Chairman.

10 BENNY WAMPLER: Any questions of this witness from
11 members of the Board?

12 (Mr. Gilliam indicates he would like to ask a
13 question.)

14 BENNY WAMPLER: Mr. Gilliam.

15 RICHARD GILLIAM: I make a motion.

16 BENNY WAMPLER: Well, he is...they've got to call
17 Mr. Dahlin.

18 RICHARD GILLIAM: Oh. Oh.

19 BENNY WAMPLER: Would you look at page six of six on
20 your Revised Exhibit B and just clarify one thing for me. Is
21 that...I'll wait till you get there. In your acreage and
22 unit unleased, is that supposed to be 31.71?

23 JIM KISER: Under acreage and unit. No, it is an
24

1 eighty (80) acre unit. It's Roaring Fork.

2 DENNIS R. BAKER: No. It is an eighty (80) acre
3 unit.

4 BENNY WAMPLER: Okay. We had...I had circled that
5 on the first one. You had 3171 on the first one.

6 JIM KISER: The first one was wrong.

7 DENNIS R. BAKER: The first one. It was incorrect
8 then.

9 JIM KISER: The first one was incorrect.

10 BENNY WAMPLER: I just wanted to clarify the---.

11 JIM KISER: Thank you. The Revised Exhibit is
12 correct.

13 BENNY WAMPLER: Okay.

14

15

16 ROBERT A. DAHLIN, II

17 having been duly sworn, was examined and testified as
18 follows:

19 QUESTIONS BY MR. KISER:

20 Q. Mr. Dahlin, could you state your name for
21 the Board, who you are employed by and in what capacity?

22 A. My name is Robert A. Dahlin, II. I'm
23 employed by Equitable Resources Energy Company, as a

24

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1 Production Specialist.

2 Q. And your qualifications as a expert witness
3 operations and production have previously been accepted by
4 the Board?

5 A. That's correct.

6 Q. And do your responsibilities include the
7 land involved here with this unit and in the surrounding
8 area?

9 A. Yes.

10 Q. And are you familiar with the proposed plan
11 of development for this well?

12 A. Yes, I am.

13 Q. And what is the total depth of the proposed
14 well under the plan of development?

15 A. One thousand two hundred and seventy (1,270)
16 feet.

17 Q. And will this be sufficient to penetrate and
18 test the common sources as supplied in the subject
19 formations?

20 A. Yes.

21 Q. What are the estimated reserves of this
22 unit?

23 A. We expect to encounter two hundred and fifty
24

1 million (250,000,000) cubic feet of gas.

2 Q. And are you familiar with the well costs for
3 the proposed well under the plan of development?

4 A. Yes, I am.

5 Q. Has an AFE been reviewed, signed and
6 submitted to the Board?

7 A. Yes.

8 Q. And was this AFE prepared by an engineering
9 department knowledgeable in the preparation of AFEs and
10 knowledgeable in regard to well costs in this particular
11 area?

12 A. Yes, it was.

13 Q. In your professional opinion, does the AFE
14 represent a reasonable estimate of the costs under the
15 applicant's plan of development?

16 A. Yes.

17 Q. Could you, at this time, state for the Board
18 both the dry hole costs and completed well costs for well VC-
19 2356?

20 A. The dry hole costs are forty-seven thousand
21 dollars (\$47,000), with a completed well cost of one hundred
22 thirty-eight thousand and three hundred dollars (\$138,300).

23 Q. And do these costs anticipate a multiple
24

1 completion?

2 A. Yes.

3 Q. Does your AFE include a reasonable charge
4 for supervision?

5 A. Yes.

6 Q. Mr. Dahlin, in your professional opinion,
7 will the granting of this application be in the best interest
8 of conservation, the prevention of waste and the protection
9 of correlative rights?

10 A. Yes.

11 JIM KISER: Nothing further of this witness at this
12 time, Mr. Chairman.

13 BENNY WAMPLER: Any questions from members of the
14 Board?

15 (No audible response.)

16 BENNY WAMPLER: Do you have anything further?

17 JIM KISER: We'd ask that the application be
18 approved as submitted.

19 BENNY WAMPLER: Do I have a motion?

20 RICHARD GILLIAM: I make a motion that we approve.

21 BENNY WAMPLER: Motion to approve. Second.

22 MAX LEWIS: I second.

23 BILL HARRIS: Second.

24

1 BENNY WAMPLER: All in favor signify by saying yes.
2 (All members indicate in the affirmative.)
3 BENNY WAMPLER: Opposed say no.
4 (No audible response.)
5 BENNY WAMPLER: You have approval. The next item on
6 the agenda is petition for Medical Resources Energy Company
7 for cooling a coal bed methane unit identified as VC-3356.
8 This is docket number GOB-09-09/15-0683. We'd ask the
9 parties that wish to address the board in this matter to come
10 forward at this time.
11 JIM KISER: Mr. Chairman, members of the board, Jim
12 Kiser again on behalf of Equitable Resources Energy Company,
13 our witness again in this matter will be Mr. Baker and Mr.
14 Dahlin. I'll remind them that they've been previously sworn.
15 BENNY WAMPLER: The record will show there are no
16 others, you may proceed.
17
18 DENNIS R. BAKER
19 having been duly sworn, examined and testified as follows:
20 DIRECT EXAMINATION
21 QUESTIONS BY MR. KISER:
22 Q. Mr. Baker, could you again state your name
23 for the record, who you're employed by, and in what capacity?
24

1 A. My name is Dennis R. Baker. I'm employed by
2 Equitable Resources Energy Company as Senior Landman.

3 Q. And do your responsibilities include the
4 land involved in this unit and in the surrounding area?

5 A. Yes, it does.

6 Q. And are you familiar with Equitable's
7 application seeking of pooling order for EREC well number VC-
8 3356, which was dated August 11, 1998?

9 A. Yes.

10 Q. Is Equitable seeking to force pool the
11 drilling rights underlying the unit as depicted at Exhibit A,
12 the plat to the application?

13 A. Yes, I am.

14 Q. Does this location proposed for well number
15 VC-3356 fall within the Board's order for the Nora coalbed
16 gas field?

17 A. Yes, it does.

18 Q. Now, prior to filing the application, were
19 efforts made to contact each of the respondents in an attempt
20 made to work out an agreement regarding the development of
21 the unit?

22 A. Yes.

23 Q. Does Equitable own drilling rights in the
24

1 unit here?

2 A. Yes, we do.

3 Q. What is the interest of Equitable in the gas
4 estate within the unit?

5 A. The interest leased to Equitable in the gas
6 estate is 99.35 percent.

7 Q. And what is the interest of Equitable in the
8 coal estate within the unit?

9 A. The interest leased in the coal estate is
10 100 percent.

11 Q. Are all the unleased parties set out at
12 Exhibit B to the application?

13 A. Yes, they are.

14 Q. And subsequent to the filing of the
15 application, did you continue to attempt to reach an
16 agreement with the .65 percent of the gas estate that's
17 unleased? A. Yes.

18 Q. As a result of those efforts, were you able
19 to obtain any additional leases?

20 A. Not at this time.

21 Q. So the present status of the drilling rights
22 underneath this unit is 100 percent of the coal lease, of the
23 coal estate's under lease and .65 of the gas estate remains
24

1 unleased?

2 A. That's correct.

3 Q. We've got some unknown heirs here, Mr.
4 Baker. Were I...were reasonable and diligent efforts made
5 and the sources checked to identify those unknown heirs
6 including primary sources such as deed records, probate
7 records, assessor's records, treasurer's records, and
8 secondary sources such as telephone directories, city
9 directories, family, and friends?

10 A. Yes.

11 Q. In your professional opinion, was due
12 diligence exercised to locate each of the respondents named
13 herein?

14 A. Yes.

15 Q. And are the addresses set out in Exhibit B
16 to the application the last known addresses for the
17 respondents?

18 A. Yes, it is.

19 Q. Are you requesting this Board to force pool
20 all the unleased interest listed in Exhibit B?

21 A. Yes.

22 Q. And are you familiar with the fair market
23 value of drilling rights in the unit involved here?

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1 A. Yes, I am.

2 Q. Could you advise the Board as the what those
3 are?

4 A. A five dollar (\$5) per acre consideration,
5 five (5) year term, one-eighth of eight-eighths royalty.

6 Q. And you gained your familiarity by acquiring
7 oil and gas leases, coalbed methane leases and other
8 agreements involving the transfer of drilling rights in the
9 unit involved here and in the surrounding area?

10 A. Yes.

11 Q. In your professional opinion, do the terms
12 you have testified to here represent the fair market value of
13 and the fair and reasonable compensation to be paid for
14 drilling rights within this unit?

15 A. Yes.

16 Q. Now, Mr. Chairman, at this time, we'd ask
17 that the testimony taken from our previous hearing, it'd be
18 9809150682 regarding the options afforded any unleased
19 respondents and their time periods in which to make and
20 confirm those elections be incorporated.

21 BENNY WAMPLER: They'll be incorporated.

22 Q. Mr. Baker, in this particular unit, we have
23 both conflicting claims to the coalbed methane and unknown
24

1 ...unknown heirs and interests, so do you recommend that the
2 operator pay into an escrow account created by the Board, all
3 costs or proceeds attributable to the conflicting claimants
4 or unknown interests of whether they should be helped or
5 respondent's benefit until such funds can be paid to the
6 party by order of the Board or until the conflicting claim is
7 resolved to the operator's satisfaction?

8 A. That's correct.

9 Q. And who should be named operator under any
10 force pooling order?

11 A. Equitable Resources Energy Company.

12 Q. Nothing further of this witness at this
13 time, Mr. Chairman.

14 BENNY WAMPLER: Questions from the remainder of the
15 Board? Call your next witness.

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1 ROBERT A. DAHLIN, II.

2 having been duly sworn, examined and testified as follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. KISER:

5 Q. Mr. Dahlin, could you state your name here,
6 employed by, and what capacity?

7 A. My name is Robert A. Dahlin, II. I'm
8 employed by Equitable Resources Energy Company as a
9 Production Specialist.

10 Q. And your qualifications as an expert in such
11 an area have been previously accepted?

12 A. That's correct.

13 Q. And your responsibilities include the land
14 involved in the unit here?

15 A. Yes.

16 Q. Are you familiar with the applicants
17 proposed plan of development for this well?

18 A. Yes.

19 Q. What is the total depth of the well under
20 the plan of development?

21 A. Two thousand six hundred and thirty (2,630)
22 feet.

23 Q. And this will be sufficient to penetrate and
24

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1 test the common sources as supplied in the subject
2 formations?

3 A. Yes, it will.

4 Q. What are the estimated reserves for this
5 unit?

6 A. Four hundred and fifty million (450,000,000)
7 cubic feet.

8 Q. Are you familiar with the well costs for the
9 proposed well under the plan of development?

10 A. Yes.

11 Q. As such, has an AFE been reviewed, signed
12 and submitted to the Board?

13 A. Yes.

14 Q. Was this AFE prepared by an engineering
15 department knowledgeable in the preparation of AFEs and
16 knowledgeable in regard to well costs in this particular
17 area?

18 A. Yes, it was.

19 Q. In your professional opinion, does the AFE
20 represent a reasonable estimate of the well costs for the
21 proposed well under the plan of development?

22 A. Yes.

23 Q. At this time, could you state for the Board
24

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1 both the dry hole costs and the completed well costs?

2 A. The dry hole costs are ninety thousand nine
3 hundred and fifteen dollars (\$90,915), with a completed well
4 cost of one hundred ninety-one thousand eight hundred dollars
5 (\$191,800).

6 Q. Now do these costs anticipate a multiple
7 completion?

8 A. Yes.

9 Q. Does your AFE include a reasonable charge
10 for supervision?

11 A. Yes.

12 Q. In your professional opinion, will the
13 granting of this application be in the best interest of
14 conservation, the prevention of waste and the protection of
15 correlative rights?

16 A. Yes, it will.

17 JIM KISER: Nothing further of this witness at this
18 time, Mr. Chairman.

19 BENNY WAMPLER: Questions from members of the Board?

20 BILL HARRIS: Mr. Chairman, let me ask a question.

21 BENNY WAMPLER: Yes.

22 BILL HARRIS: Bob, I have a question about, you may
23 not be able to answer this because the...the folks in

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1 Buchanan aren't here and I was just sort of looking,
2 comparing figures and I guess you're not supposed to do this,
3 but I know we're talking about different entities. On your
4 ...this is just informational for me, on your AFE where we
5 have fracing, about how much of this, if...if I were to say
6 this is the cost of fracing, I noticed that you'll have this
7 spelled out as acidize, and squeeze, and tank rental, and
8 completion and so forth---.

9 ROBERT DAHLIN: Right.

10 BILL HARRIS: ---do I go down to about drilling frac
11 fluid disposal somewhere down in that neighborhood, do you
12 think? I'm just trying to get a feel.

13 ROBERT DAHLIN: On page two (2)---.

14 BILL HARRIS: Yeah.

15 ROBERT DAHLIN: ---of our treatment---.

16 BILL HARRIS: Starts at thirteen thousand (13,000).

17 ROBERT DAHLIN: ---typically...typically, what we
18 do is a foamed sand transported type of a treatment. It may
19 be different if we're drilling a conventional well that's in
20 a big line in which case we acidize, but on all our coal
21 wells, you'll see this typically broken down acidize frac,
22 which is the fluid end and the other is carbon dioxide and
23 nitrogen, so the two figures of thirteen thousand (13,000)

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1 and twelve thousand dollars (\$12,000) are basically our frac
2 costs. There are some tank rentals on coalbed methane wells,
3 that's typical for us. We do a single stage, limited entry
4 completion and we...we've done most of the wells like that.
5 So, most of the time ours will look like this.

6 BILL HARRIS: Okay. Okay. But, costs total twenty-
7 five (25) thirty-five (35) thousand.

8 ROBERT DAHLIN: Typically for the frac job, yes.
9 Some incidentals for some fluid to be gathered, tanks to be
10 rented and then the service rig to take the fluid back out if
11 it doesn't flow back. So, basically you're looking at
12 twenty-five thousand dollars (\$25,000).

13 BILL HARRIS: Thank you. The reason I asked the
14 questions I just...and again, this is probably not an
15 appropriate time, but since I'm into this, let me just
16 comment, I had just looked at the other well that we had
17 discussed earlier, the S-35 and I know conditions are
18 different or whatever, but that depth was nineteen hundred
19 (1,900) feet, and was a seventy thousand dollar (\$70,000)
20 bracket. I don't know if we're comparing apples to apples
21 but when I looked at that and I thought, "Woah," you know,
22 there's something...someone's not doing something or someone
23 is or either...and then that's why I was asking you, what's

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1 in your opinion---.

2 ROBERT DAHLIN: I really can't speak to how
3 their...their design is, you know. All I can tell you is,
4 this is a typical size and type of frac for us that we apply
5 to our limited entry jobs.

6 BILL HARRIS: Is that contracted out? Do you all
7 contract the fracing part or do you all do that yourselves?

8 ROBERT DAHLIN: It's...it's performed by a service
9 company, but we have...it's just like everything else we do,
10 we have personnel that sits on the jobs and supervises it, or
11 lately, things are done with telemetry and we have a monitor
12 in the office that watches the job as it goes on the field.

13 BILL HARRIS: Thank you.

14 BENNY WAMPLER: Other questions?

15 TOM FULMER: Chairman, I just want to follow up
16 with that. There's a lot of factors involved in fracing and
17 stimulating that one company may do, that another company may
18 not. You get into cost per horsepower and the horsepower you
19 got out there, how much sand you put in there and how much
20 water you put in there, how many zones are fraced. So it
21 would vary between situations and not by committing the cost
22 analysis.

23 BILL HARRIS: No, no. No, I was just saying I may
24

1 not be comparing apples to apples and that's why---.

2 TOM FULMER: It's hard to do when you're talking
3 about hydraulic fracturing what you typically do, except for
4 costs. (Inaudible). It may vary after that, it may be fifty
5 thousand dollars (\$50,000) versus seventy thousand dollars
6 (\$70,000), or it may be eighty thousand dollars (\$80,000)
7 versus fifty thousand dollars (\$50,000).

8 BENNY WAMPLER: Right.

9 TOM FULMER: It depends on the situation in regards
10 to the stimulation process.

11 BILL HARRIS: But, there's no numbers that we can
12 look at on the average for the industry that we say, oh, this
13 is reasonable or this isn't reasonable---

14 MAX LEWIS: Ball park figures maybe.

15 BILL HARRIS: I'm sorry, what's that?

16 ROBERT DAHLIN: Again, Bill, what...what we have
17 found, I mean, we've been operating coalbed methane now for
18 quite a while, so we've...we've defined our economics, you
19 know, every year and we...we've run production logs after the
20 fact. We've identified the zones that we think are most
21 likely to produce and then we look at the horsepower
22 requirements at the surface that accomplishes the stimulation
23 of the zones that we think we need to treat and, like I said,

24

--

1 ours is a single stage of one...there's one time that you
2 pump at the surface, but we are treating many different
3 zones. So, if we were to take that into a two-stage or
4 three-stage job, we'd easily add another incremental fifteen
5 (15) per stage at least. But, just...just to elaborate a
6 little further, this is a seven and a half minute quadrangle.
7 The well that we're looking at right here is this one. We're
8 offsetting all our own wells, you know, P7, PC7, you know,
9 that kind of gives you the...how old the well is that we're
10 going to be offsetting. We know what we're going to be
11 producing. If this was a more rank wildcat and we didn't
12 know the contributions per seams, we may...we may elect to
13 produce (inaudible) the lower ones and test them, produce the
14 middle ones and test them, keep on going up, but this is a
15 thoroughly developed area and this is where we refined our
16 economics down to where we can do it as cheaply as possible.

17 BILL HARRIS: Robert, I appreciate it. I'm
18 convinced. Like I said, this probably isn't the appropriate
19 question for you, but I thank you.

20 TOM FULMER: I think it's very appropriate.

21 BILL HARRIS: Well, I mean, to ask one person, but
22 I'm not, and again I'm not trying to compare numbers, but I'm
23 just trying to get a feel for when I see your all's numbers

24

--

1 and I see numbers from other folks and there seems to be a
2 large difference. I'm just trying to get a feel for why
3 there's a large difference. And, again the other...the other
4 folks aren't here to ask questions.

5 BENNY WAMPLER: Any other questions? Do you have
6 anything further?

7 JIM KISER: Mr. Chairman, we'd ask that the
8 application be approved and submitted.

9 MAX LEWIS: I make a motion to approve the
10 application as presented.

11 RICHARD GILLIAM: I second it.

12 BENNY WAMPLER: Second any further discussion.

13 (No audible response.)

14 BENNY WAMPLER: All in favor signify by saying yes.

15

16 (All members signify in the affirmative.)

17 BENNY WAMPLER: Opposed say no.

18 (No audible response.)

19 BENNY WAMPLER: You have approval.

20 The next item on the agenda is a petition from
21 Equitable Resources Energy Company for pooling of a coalbed
22 methane unit identified as VC-3899, docket number VGOB-09-15-
23 0684. We'd ask the parties that wish to address the Board in
24

--

1 this matter to come forward at this time.

2 JIM KISER: Mr. Chairman, Jim Kiser again on behalf
3 of Equitable Resources Energy Company, our sworn witnesses
4 will once again will be Mr. Baker and Mr. Dahlin.

5 BENNY WAMPLER: Let the record will show there are
6 no others, you may proceed.

7

8 DENNIS R. BAKER
9 having been duly sworn, was examined and testified as
10 follows:

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. KISER:

13 Q. Mr. Baker, could you again state your name
14 for the record, who you're employed by, and in what capacity?

15 A. My name is Dennis R. Baker. I'm employed by
16 Equitable Resources Energy Company as Senior Landman.

17 Q. And do your responsibilities include the
18 land involved in the unit for VC-3899 and in the surrounding
19 area?

20 A. Yes.

21 Q. And are you familiar with the application
22 that Equitable filed seeking a pooling order for EREC well
23 number VC-3899, which was dated August 11th, 1998?

24

--

1 A. Yes.

2 Q. Is Equitable seeking to force pool the
3 drilling rights underlying the unit as depicted at Exhibit A,
4 the plat to the application?

5 A. Yes, we are.

6 Q. Is the location proposed for well number VC-
7 3899 fall within the Board's order for the Nora coalbed gas
8 field?

9 A. Yes.

10 Q. Now, prior to filing the application, were
11 efforts made to contact each of the respondents in an attempt
12 made to work out a voluntary lease agreement regarding the
13 development of the unit?

14 A. Yes, it does.

15 Q. As such, does Equitable own drilling rights
16 within the unit involved here?

17 A. Yes.

18 Q. What is the interest of Equitable in the gas
19 estate within the unit?

20 A. The interest leased in the gas estate is
21 99.66 percent.

22 Q. And what is the interest of Equitable in the
23 coal estate in the unit?

24

1 A. The interest leased in the coal estate is
2 100 percent.

3 Q. Are all the unleased parties set out at
4 Exhibit B to the application?

5 A. Yes.

6 Q. And subsequent to the filing of this
7 application, have you continued to attempt to reach an
8 agreement with the .34 percent of the gas estate that's
9 unleased and listed as unleased in Exhibit B?

10 A. Yes.

11 Q. As a result of those efforts, were you able
12 to obtain any additional leases?

13 A. No, we have not.

14 Q. So, at this point and time the coal estate
15 is 100 percent leased and the gas estate has .34 percent
16 unleased?

17 A. That's correct.

18 Q. We do have an unknown party in Tract Three
19 of the gas estate. Were reasonable and diligent efforts made
20 and the sources checked to identify and locate this unknown
21 heir including primary sources such as deed records, probate
22 records, assessor's records, treasurer's records, and
23 secondary sources such as telephone directories, city
24

1 directories, family, and friends?

2 A. Yes.

3 Q. In your professional opinion, was due
4 diligence exercised to locate each of the respondents named
5 in Exhibit to the application?

6 A. Yes.

7 Q. And are the addresses set out in Exhibit B
8 to the application the last known addresses for the
9 respondents?

10 A. Yes.

11 Q. Are you requesting this Board to force pool
12 all the unleased interest listed in Exhibit B to the
13 application?

14 A. Yes, we are.

15 Q. And are you familiar with the fair market
16 value of drilling rights in the unit here and in the
17 surrounding area?

18 A. Yes, I am.

19 Q. Could you advise the Board as to what those
20 are?

21 A. A five dollar (\$5) per acre consideration,
22 five (5) year term, one-eighth of eight-eighths royalty.

23 Q. In your professional opinion, do the terms
24

1 you have testified to represent the fair market value of, and
2 the fair and reasonable compensation to be paid for, drilling
3 rights within this unit?

4 A. Yes.

5 JIM KISER: Mr. Chairman, at this time, we'd ask
6 that the...once again, that the testimony regarding the
7 options afforded any unleased respondents and their time
8 periods in which to respond to those that was previously
9 taken VGOB docket number 95...I mean, 98---

10 MR. WAMPLER: 98.

11 JIM KISER: ---09-15-0682 be incorporated.

12 BENNY WAMPLER: That will be incorporated.

13 Q. Okay. We have a conflicting claimant
14 situation on the coalbed methane tract three of this unit, is
15 that correct, Mr. Baker?

16 A. Yes, it is.

17 Q. And as such, do you ask that the an escrow
18 account created by the Board into which all costs or proceeds
19 attributable to the conflicting interests shall be held for
20 the respondent's benefit until such funds can be paid to the
21 party by order of the Board or until the conflicting claim is
22 resolved to the operator's satisfaction?

23 A. Yes.

24

--

1 Q. And who should be named operator under any
2 force pooling order?

3 A. Equitable Resources Energy Company.

4 JIM KISER: Nothing further of this witness at this
5 time, Mr. Chairman.

6 BENNY WAMPLER: Questions from the members of the
7 Board of this witness?

8 (No audible response.)

9 BENNY WAMPLER: Call your next witness.

10

11 ROBERT A. DAHLIN, II.

12 having been duly sworn, was examined and testified as
13 follows:

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KISER:

16 Q. Mr. Dahlin, if you could again state your
17 name, who you are employed by, and what capacity?

18 A. My name is Robert A. Dahlin, II. I'm
19 employed by Equitable Resources Energy Company, as a
20 Production Specialist.

21 Q. And do your responsibilities include the
22 land involved for this unit?

23 A. That's correct.

24

--

1 Q. Are you familiar with the proposed plan of
2 exploration for the well here?

3 A. Yes.

4 Q. And what is the total depth of the proposed
5 well under the applicant's plan?

6 A. One thousand eight hundred and twenty-five
7 (1,825) feet.

8 Q. And this will be sufficient to penetrate and
9 test the common sources as supplied in the subject
10 formations?

11 A. Yes.

12 Q. What are the estimated reserves for this
13 unit?

14 A. Four hundred and fifty million (450,000,000)
15 cubic feet.

16 Q. Okay. Now, are you familiar with the well
17 costs for the proposed well under the plan of development?

18 A. Yes.

19 Q. Has an AFE been reviewed, signed and
20 submitted to the Board along with application?

21 A. Yes, it has.

22 Q. Was this AFE prepared by an engineering
23 department knowledgeable in the preparation of AFEs and
24

1 knowledgeable in regard to well costs in this area?

2 A. Yes.

3 Q. In your professional opinion, does the AFE
4 represent a reasonable estimate of the well costs under the
5 applicant's plan of development?

6 A. Yes, it does.

7 Q. Could you state at this time what the dry
8 hole costs and the completed well costs are?

9 A. The dry hole costs in this case are sixty-
10 three thousand three hundred and eighty-nine dollars
11 (\$63,389), with a completed well cost of one hundred seventy-
12 three thousand one hundred dollars (\$173,100).

13 Q. Do these costs anticipate a multiple
14 completion?

15 A. Yes, it does.

16 Q. Does your AFE include a reasonable charge
17 for supervision?

18 A. Yes.

19 Q. In your professional opinion, Mr. Dahlin,
20 will the granting of this application be in the best interest
21 of conservation, the prevention of waste and the protection
22 of correlative rights?

23 A. Yes.

24

--

1 JIM KISER: Nothing further of this witness at this
2 time, Mr. Chairman.

3 BENNY WAMPLER: Any questions from members of the
4 Board?

5 (No audible response.)

6 BENNY WAMPLER: Do you have anything further?

7 JIM KISER: Mr. Chairman, we'd ask that the
8 application be approved as submitted.

9 MAX LEWIS: I make a motion we approve the
10 application as submitted.

11 RICHARD GILLIAM: I second.

12 BENNY WAMPLER: Motion is seconded. Any further
13 discussion?

14 (No audible response.)

15 BENNY WAMPLER: All in favor signify by saying yes.
16 (All members signify in the affirmative.)

17 BENNY WAMPLER: Opposed say no.

18 (No audible response.)

19 BENNY WAMPLER: You have approval. Thank you. The
20 next item on the agenda is a petition from Equitable
21 Resources Energy for modification of a previously pooled
22 conventional gas unit identified V-2691, docket number GOB-
23 98-02/17-0623-01. We'd ask the parties that wish to address
24

1 the Board in this matter to come forward at this time,
2 please.

3 JIM KISER: Mr. Chairman and members of the Board,
4 Jim Kiser on behalf of Equitable Resources Energy Company.
5 Our witnesses in this matter again will be Mr. Baker and Mr.
6 Dahlin. This was a well that we previously pooled, a
7 conventional well we previously pooled back in February of
8 this year. The Board order was dated March 23, 1998. A
9 supplemental order was filed and recorded July 6, 1998.
10 Subsequent to that, Jack Kennedy, who you all probably all
11 know, is the Clerk in Wise County, pointed out to us some
12 additional heirs to the Tract Number Eight under the Vern
13 Scott Porter heirs that we had not included in the original
14 force pooling. We have attempted to obtain leases from those
15 folks. We have gotten, I guess, one of the three leased. We
16 also noticed Mr. Campbell Limbird Cordell because it did
17 affect...he was a leased party to the original force pooling,
18 but it did affect his interest. So, he received notification
19 of this modification and at this time we are here to pool the
20 interest of the other two additional heirs.

21

22 DENNIS R. BAKER

23 having been duly sworn, was examined and testified as

24

--

1 follows:

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. KISER:

4 Q. Mr. Baker, could you again state for the
5 Board your name, who you're employed by, and in what
6 capacity?

7 A. My name is Dennis R. Baker. I'm employed by
8 Equitable Resources Energy Company as Senior Landman.

9 Q. And do your responsibilities include the
10 land involved here for the unit for V-2691?

11 A. Yes.

12 Q. And are you familiar with Equitable's
13 application to modify to a previous Board order and seeking a
14 new pooling order for EREC well number V-2691, which was
15 dated August 11, 1998?

16 A. Yes.

17 Q. And does Equitable own drilling rights in
18 the unit involved here?

19 A. Yes, we do.

20 Q. And does this proposed unit depicted at
21 Exhibit A, that being the plat to the application, include
22 all acreage within twenty-five hundred (2,500) feet, that
23 being a twelve hundred and fifty (1,250) foot radius of the
24

1 proposed well number V-2691?

2 A. Yes.

3 Q. Now, prior to filing this application, did
4 you make an attempt to contact each of the new respondents in
5 an attempt to work out a lease with them?

6 A. Yes, I did.

7 Q. And at the time that we filed this
8 application, what was the new leased interest of Equitable
9 within the unit?

10 A. At the time of the modification...
11 application for modification we had 98.64 percent under
12 lease.

13 Q. And are you familiar with the ownership of
14 drilling rights of parties other than Equitable underlying
15 this unit?

16 A. Yes, I am.

17 Q. And so what interest remains unleased at
18 this time? What percentage of interest remains unleased?

19 A. At the time of application it was 1.36
20 percent. Today at the time of the hearing we had .95 percent
21 unleased.

22 Q. Okay. Could you point out to the Board what
23 additional leases you have been able to obtain during the
24

1 time period between the filing of the application and the
2 hearing today?

3 A. Yes, on page three of the Revised Exhibit,
4 the interest leased is James R. Porter and Mary Ellen Porter.

5 Q. And they represent one of the three
6 additional heirs that were pointed out to us by Mr. Kennedy?

7 A. Yes.

8 Q. So, could you state again for the Board and
9 for Miss Riggs what the unleased percentage is at this time?

10 A. The unleased percentage in the unit is .95
11 percent.

12 Q. And are all remaining unleased parties set
13 out in our Revised Exhibit B that you've handed out to the
14 Board this morning?

15 A. Yes.

16 SANDRA RIGGS: Would you name the heirs that
17 entitled to make an election under the modification?

18 JIM KISER: Sure. The heirs entitled to make an
19 election under the modification would be Bobby Lee Kennedy
20 and Shirley Faye Gillenwater and her husband, Bill R.
21 Gillenwater.

22 SANDRA RIGGS: Okay.

23 Q. Mr. Baker, are the addresses set out in the
24

1 Revised Exhibit B to the application the last known addresses
2 for the respondents?

3 A. Yes.

4 Q. Are you requesting this Board to force pool
5 the unleased interest of both Bobby Lee Kennedy and Shirley
6 Faye and Bill Gillenwater?

7 A. Yes.

8 Q. And are you familiar with the fair market
9 value of drilling rights in the unit here and in the
10 surrounding area?

11 A. Yes, I am.

12 Q. Could you advise the Board as to what those
13 are?

14 A. A five dollar (\$5) per acre consideration,
15 five (5) year term, one-eighth of eight-eighths royalty.

16 Q. In your opinion, do the terms you have just
17 testified to represent the fair market value of and the fair
18 and reasonable compensation to be paid for drilling rights
19 within this unit?

20 A. Yes.

21 JIM KISER: Mr. Chairman, at this time, we'd ask
22 that the testimony taken previously in our first hearing
23 today 98-09/15-0862 regarding election options afforded the
24

1 unleased parties and their time in which to respond to those
2 options be incorporated.

3 BENNY WAMPLER: They will be incorporated.

4 Q. Okay. Mr. Baker, do we have any unknown
5 interest in this unit?

6 A. I don't believe so.

7 JIM KISER: I don't think so either.

8 SANDRA RIGGS: Harry Porter on page five, he is
9 deemed to lease under the prior order.

10 JIM KISER: It is any of...any unleashed...any
11 interest that are still showing up as unleashed in the Revised
12 Exhibit B with the exception of Bobby Lee Kennedy and the
13 Gillenwaters would have been pooled under the prior order in
14 March...recorded in March.

15 Q. So, we don't need an escrow account for this
16 unit, Mr. Baker?

17 A. No.

18 Q. And who should be named operator under any
19 force pooling order?

20 A. Equitable Resources Energy Company.

21 JIM KISER: No further questions of this witness at
22 this time, Mr. Chairman.

23 BENNY WAMPLER: Questions from the members of the
24

1 Board?

2 (No audible response.)

3 BENNY WAMPLER: Call your next witness.

4

5 ROBERT A. DAHLIN, II.

6 having been duly sworn, was examined and testified as
7 follows:

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. KISER:

10 Q. Mr. Dahlin, state your name, who your are
11 employed by, and what capacity?

12 A. My name is Robert A. Dahlin, II. I'm
13 employed by Equitable Resources Energy Company as a
14 Production Specialist.

15 Q. And you have testified previously on the
16 force pooling hearing for this well back in February of this
17 year?

18 A. That's correct.

19 Q. And you familiar...has the proposed plan of
20 development changed at all?

21 A. No, it has not.

22 Q. And what is the total depth of the well
23 under the plan of development?

24

--

1 A. Five thousand twenty-nine (5,029) feet.

2 Q. And is the applicant requesting the force

3 pooling of conventional gas reserves here not only to include

4 the designated formations, but any other formations excluding

5 coal formations which may be between those formations

6 designated from surface to total depth drilled?

7 A. That's correct.

8 Q. And what are the estimated reserves of this

9 unit?

10 A. Five hundred million (500,000,000) cubic

11 feet.

12 Q. And you are familiar with the well costs for

13 the well under the plan of development?

14 A. Yes.

15 Q. Is the AFE the same as it was submitted back

16 in February?

17 A. Yes, it is.

18 Q. Could you state for the Board the dry hole

19 costs and completed well costs?

20 A. The dry hole costs were one hundred and

21 thirty-two thousand six hundred (132,600) and the completed

22 well costs were two hundred forty-five thousand dollars

23 (\$245,000).

24

1 Q. And in your professional opinion, do those
2 costs and AFE that represent those costs provide a reasonable
3 estimate for this particular well under the plan of
4 development?

5 A. Yes, it does.

6 Q. Do these costs anticipate a multiple
7 completion?

8 A. Yes.

9 Q. Does your AFE include a reasonable charge
10 for supervision?

11 A. Yes, it does.

12 Q. In your professional opinion, will the
13 granting of this application be in the best interest of
14 conservation, the prevention of waste and the protection of
15 correlative rights?

16 A. Yes.

17 JIM KISER: Nothing further of this witness at this
18 time, Mr. Chairman.

19 BENNY WAMPLER; Could you repeat the estimated
20 reserves, please. I didn't hear you.

21 MAX LEWIS: Five hundred million (500,000,000).

22 ROBERT A. DAHLIN, II: Five hundred million
23 (500,000,000) cubic feet.

24

--

1 BENNY WAMPLER: Okay. Thank you. Any other
2 questions of this witness?

3 SANDRA RIGGS: With respect to the modification, the
4 only thing that's changed is the adding of the two heirs and
5 to extend the right of election? All other details are the
6 same as the original pooling order?

7 DENNIS R. BAKER: We added three individuals.

8 SANDRA RIGGS: Leased one and will give the right of
9 election to the two unleased new parties?

10 JIM KISER: Right. Right.

11 DENNIS R. BAKER: Yes. Yes.

12 SANDRA RIGGS: But with respect to the details of
13 the well, that all remains exactly the same?

14 JIM KISER: Correct.

15 DENNIS R. BAKER: Yes, ma'am.

16 BENNY WAMPLER: Anything further?

17 JIM KISER: We'd ask that the application be
18 approved as submitted, Mr. Chairman.

19 BENNY WAMPLER: Do we have a motion?

20 BILL HARRIS: Mr. Chairman, I would move for
21 approval of the application.

22 BENNY WAMPLER: Motion to approve. Second?

23 RICHARD GILLIAM: I second.

24

1 BENNY WAMPLER: Second. Any further discussion?
2 (No audible response.)
3 BENNY WAMPLER: All in favor signify by saying yes.
4 (All members signify in the affirmative.)
5 BENNY WAMPLER: Opposed say no.
6 (No audible response.)
7 BENNY WAMPLER: You have approval. The next item on
8 the agenda is a petition from Equitable Resources Energy
9 Company for a well location exception for a conventional gas
10 unit identified as V-3953. This is docket number GOB-98-
11 09/15-0685 and we'd ask the parties that wish to address the
12 Board in this matter to come forward at this time. I started
13 to say this is Don Hall exception.
14 JIM KISER: We don't get to see him that much any
15 more.
16 TOM FULMER: Look at it this way, you are expert.
17 BENNY WAMPLER: You've been out there, haven't you?
18 ROBERT A. DAHLIN, II: You'd better believe it.
19 JIM KISER: Mr. Chairman, Jim Kiser on behalf of
20 Equitable Resources Energy Company. Our witnesses in this
21 matter will be Mr. Don Hall, who needs to be sworn, and Mr.
22 Dahlin who has been previously sworn.
23 (Mr. Don Hall is duly sworn.)
24

1 BENNY WAMPLER: The record will show there are no
2 others. You may proceed.

3

4 DON C. HALL
5 having been duly sworn, was examined and testified as
6 follows:

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. KISER:

9 Q. Mr. Hall, could you state your name for the
10 Board and who you are employed by and in what capacity?

11 A. Don C. Hall. I'm employed by Equitable
12 Resources Energy Company as a District Landman.

13 Q. And have your qualifications on many
14 previous occasions as an expert witness in land matters have
15 been accepted by the Board?

16 A. Yes, they have.

17 Q. And do your responsibilities include the
18 land involved here for the unit for well V-3953?

19 A. They do.

20 Q. And are you familiar with the application
21 seeking a location exception for this well and the relief
22 ...that we filed...dated August 14, 1998?

23 A. Yes, I am.

24

--

1 Q. And have all interested parties been
2 notified as required by Section 4B of the Virginia Gas and
3 Oil Board Regulations?

4 A. They have.

5 Q. Now, could you indicate for the Board the
6 ownership of the oil and gas underlying the unit for well
7 number V-3953?

8 A. Pine Mountain Oil and Gas owns a 100 percent
9 of the oil and gas.

10 Q. And have they given their approval to this
11 location?

12 A. They have.

13 Q. And does Equitable have the right...we are
14 actually seeking a location from three different wells here,
15 is that correct?

16 A. That's correct.

17 Q. And Equitable has the right to operate two
18 of the reciprocal wells with the third well being a old Pine
19 Mountain well?

20 A. That's correct.

21 Q. So, are there any...certainly within the
22 unit and even in the surrounding, are there any correlative
23 rights issues?

24

--

1 A. No, it is all Pine Mountain or under
2 lease...and under leased to us.

3 Q. Okay. Now, in conjunction with the Exhibit
4 that you have submitted to the Board, could you in detail
5 explain why we are seeking this exception from these three
6 wells? First is...well, just go into your exhibit, if you
7 would.

8 A. As you can see from the Exhibit, I have
9 3953, which is the subject well is highlighted in red or
10 pink. The three reciprocal wells that Mr. Kiser mentioned
11 are highlighted in blue. The area that's highlighted in
12 yellow is a window in which a legal location could be placed
13 for this well. That window was established by offsetting the
14 wells that are also highlighted in green in addition to the
15 wells that are in blue. To get a location in the nearest
16 point of that window, we would have to move it into
17 the...sort of the Northwest corner there. The typography in
18 that area is fifty to sixty percent grade in there. It is
19 really steep and it is above a high wall. We move the
20 location down on an old strip bench there just below that
21 corner. If we put the location anywhere else within that
22 window, it would eliminate two future wells that we have
23 planned in that area. We have room for an additional well in

24

1 the Southeast corner of that...the yellow window and the one
2 near the Northeast corner up near the line (inaudible), we
3 could place two...if we put the well in the middle of this
4 window or anywhere else in this window, we would eliminate
5 potentially two more wells.

6 Q. You would eliminate a well in the Southeast
7 corner of your yellow section and the Northeast corner of
8 your yellow section?

9 A. Yes.

10 Q. So, by seeking this location exception
11 what...essentially what we are doing is trying to provide for
12 the most efficient, economic and optical cover recovery of
13 the reserves in this entire area?

14 A. That's correct.

15 JIM KISER: Nothing further of this witness at this
16 time, Mr. Chairman.

17 BENNY WAMPLER: Any questions from members of the
18 Board?

19 (No audible response.)

20 BENNY WAMPLER: Call your next witness.

21

22 ROBERT A. DAHLIN, II

23 having been duly sworn, was examined and testified as

24

--

1 follows:

2 QUESTIONS BY MR. KISER:

3 Q. Mr. Dahlin, once again could you state your
4 name for the Board, who you are employed by and in what
5 capacity?

6 A. Robert A. Dahlin, II. I'm employed by
7 Equitable Resources Energy company, as a Production
8 Specialist.

9 Q. Have you been accepted as an expert witness
10 in that area many times?

11 A. Yes.

12 Q. And are you familiar with the application
13 for the location exception filed for well number V-3953?

14 A. Yes, I am.

15 Q. In the event this location exception is not
16 granted, would you project the estimated loss of reserves
17 just under this unit, not even taking into account that if we
18 had to move it to a legal location, we would lose two other
19 units?

20 A. Right. We have assigned five hundred
21 million (500,000,000) cubic feet to this location.

22 Q. And what is the total depth of the well
23 under the plan of development?

24

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1 A. Four Thousand nine hundred and fifty (4,950)
2 feet.

3 Q. And this will be sufficient to penetrate and
4 test the common sources as supplied in the subject
5 formations?

6 A. Yes.

7 Q. Are you requesting this location exception
8 to cover conventional gas reserves to include the designated
9 formations from the surface to total depth drilled?

10 A. That's correct.

11 Q. In your professional opinion, will the
12 granting of this location exception be in the best interest
13 of preventing waste, protecting correlative rights, and
14 maximizing the recovery of the gas reserves underlying the
15 unit for well number V-3953?

16 A. That's correct.

17 JIM KISER: Nothing further of this witness at this
18 time, Mr. Chairman.

19 BENNY WAMPLER: Any questions from members of the
20 Board?

21 (No audible response.)

22 BENNY WAMPLER: Do you have anything further?

23 JIM KISER: We'd ask that the application be
24

1 approved as submitted, Mr. Chairman.

2 RICHARD GILLIAM: Motion to approve.

3 BENNY WAMPLER: Got a motion to approve. Second?

4 BILL HARRIS: Second.

5 BENNY WAMPLER: Second. Any further discussion?

6 (No audible response.)

7 BENNY WAMPLER: All in favor signify by saying yes.

8 (All members signify in the affirmative.)

9 BENNY WAMPLER: Opposed say no.

10 (No audible response.)

11 BENNY WAMPLER: You have approval. Thank you very

12 much.

13 JIM KISER: Thank you, Mr. Chairman.

14 DON C. HALL: Thank you.

15 BENNY WAMPLER: The next item on the agenda is a

16 petition from Cabot Oil and Gas Corporation for a

17 conventional gas unit identified as PM C A-4, docket number

18 GOB-98-09/15-0686. We'd ask the parties that wish to address

19 the Board in this matter to come forward at this time,

20 please. Good afternoon.

21 JIM KISER: Mr. Chairman, Jim Kiser on behalf of

22 Cabot Oil and Gas Corporation. We are going to have several

23 witnesses in this matter. First, I would like to hand out to

24

1 the Board some revised...we've got a revised Exhibit B, a
2 revised AFE, and a Resume from Mr. Ott, who will be our
3 expert witness on operations.

4 (Mr. Kiser hands out the exhibits.)

5 JIM KISER: Mr. Chairman, at this time we would ask
6 that our three witnesses, Mr. Mike Pryor, Miss Carol Hoch and
7 Mr. Tom Ott be sworn.

8 (All three witnesses are duly sworn.)

9 BENNY WAMPLER: The record will show there are no
10 others. You may proceed.

11 JIM KISER: Mr. Pryor will be our first witness.

12

13 MICHAEL S. PRYOR, SR.

14 having been duly sworn, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. KISER:

18 Q. Mr. Pryor, could you please state your name,
19 who you are employed by and in what capacity?

20 A. Michael S. Pryor, Sr. I am employed by
21 Cabot Oil and Gas as an Independent Petroleum Landman.

22 Q. And do your responsibilities include the
23 land involved here and in the surrounding area?

24

--

1 A. Yes.

2 Q. And you have previously testified before the
3 Board as an expert witness in land matters?

4 A. Yes, I have.

5 JIM KISER: Mr. Chairman, we'd ask that Mr. Pryor be
6 accepted as an expert witness in those matters.

7 BENNY WAMPLER: Without objection.

8 Q. And you are familiar with Cabot's
9 application for the establishment of a drilling unit and
10 seeking a pooling order for Cabot well number PM C A-4, dated
11 August 11, 1998?

12 A. Yes, I am.

13 Q. Does Cabot own drilling rights in the unit
14 involved here?

15 A. Yes.

16 Q. And does the proposed unit depicted at
17 Exhibit A include all acreage within twenty-five hundred
18 (2500) feet, that being a twelve hundred (1200) foot radius
19 of proposed well number PM C A-4?

20 A. Yes.

21 Q. Now, Mr. Pryor, prior to filing the
22 application, were efforts made to contact each of the
23 respondents in an attempt made to work out an agreement
24

1 regarding the development of the unit involved?

2 A. Yes.

3 Q. Okay. As to the interest of Cabot within
4 the unit at the time...under lease to Cabot at the time that
5 application was filed, could you please state that?

6 A. 81.73 percent.

7 Q. Okay. And unleased at the time of
8 application was 18.27 percent?

9 A. Correct.

10 Q. Now, subsequent to the filing of the
11 application, have you continued to attempt to reach an
12 agreement with the respondents listed in Revised Exhibit B?

13 A. Yes.

14 Q. As a result of those efforts, have you been
15 able to require additional leases from any of those
16 respondents?

17 A. Yes...yes, I have.

18 Q. Could you point those out for the Board at
19 this time?

20 A. The additional leases are Sybil D. Baldwin.

21 Q. That's on...that's under Tract Eight under
22 the Hobert Day heirs?

23 A. Right. On page two of three of Exhibit B.

24

1 Edith D. Ratliff, King David Ray, Thelma Day Lovelace, Glen
2 A. Day, Hobert Day, Pernell Day and Allie s. Gillespie.

3 JIM KISER: Miss Riggs, did you get all of those?

4 SANDRA RIGGS: Well, I'll get it off of her.

5 JIM KISER: You will get them. Okay.

6 Q. Okay. So, what would be the current percent
7 of the unit under lease to Cabot?

8 A. Right at 83 percent.

9 Q. 82.67?

10 A. I think, yes, that's correct.

11 Q. And the percentage unleased at this time
12 would be 17.33?

13 A. Correct.

14 Q. Okay. All unleased parties are set out in
15 revised Exhibit B?

16 A. Yes, they are.

17 JIM KISER: At this time, Mr. Chairman, I would like
18 to call...I want to suspend Mr. Pryor's testimony for just a
19 few minutes and call in Miss Hoch to testify regarding the
20 interest...the unleased interest in Tract A attributed to
21 Pocahontas Mining Company and to the interest in Tract Six
22 where the gas lessee is Blazer Energy Corporation.

23

24

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1 correspondence and with telephone calls and as of yesterday
2 they have indicated that they wish to lease their interest to
3 us. They...we currently have a lease with them out there.
4 We will be amending that lease to include this additional
5 interest that they have within this unit.

6 Q. And we expect this lease to be finalized
7 within the period time that will occur between any issuance
8 of a Board order and filing a supplemental order in which we
9 can dismiss them as a voluntary lease?

10 A. Yes.

11 Q. Okay. Thank you.

12 BENNY WAMPLER: That is for Tract Eight?

13 JIM KISER: That's for....yes.

14 BENNY WAMPLER: Okay.

15 JIM KISER: That's for the two-thirds interest that
16 Pocahontas has in Tract Eight.

17 Q. Now, as to Tract Six, have you been in
18 contact with Mr. Dean Williams, who is the original Landman
19 for Blazer/Eastern/Stat Oil regarding their desire to
20 participate in PM C A-4?

21 A. Yes, I have. We began contacts with them
22 back in May and have continued to have contacts both in
23 correspondence and verbally over the telephone and they have
24

1 indicated as of yesterday that they wish to participate with
2 their interest in the unit.

3 JIM KISER: Thank you very much. I don't have any
4 further questions of this witness at this time, Mr. Chairman.

5 BENNY WAMPLER: Any questions from members of the
6 Board of Miss Hoch?

7 (No audible response.)

8 JIM KISER: We will go back to Mr. Pryor.

9 Q. Before we get into some of the election
10 options, Mr. Pryor, and the fair market value testimony,
11 you've been...we've been handed a letter this morning that I
12 had not previously seen from a Mr. Kiser. I believe you kind
13 of alerted me to this situation earlier. Can you kind of go
14 through the history of his objection, or letter?

15 A. About a year and a half ago, our surveyors
16 were out surveying this property and he was out
17 there...became aware that we were out there surveying and
18 then...wanted to know why we were out there and he was told
19 Cabot was going to drill an oil and gas well. He was saying,
20 "Well, no, you all don't own any of the minerals out there.
21 I do." And subsequent to that, we have had title opinions
22 showing that Cabot does or has leased the oil and gas rights
23 under his property. It was owned by PMC. And also, I have

24

--

1 talked to him and sent him copies of all the severance deeds
2 concerning the three tracts that he owns. He owns...his
3 family owns a ten acre tract. It is called a ten acre tract,
4 twenty acre and sixty-eight acre tract. And it is tracts...I
5 need a copy of the plat. It's...it's shown as Elbert Kiser
6 heirs on PM C A-4 down at the drill site tract.

7 RALPH KISER: Excuse me. I am Ralph Kiser.

8 MICHAEL S. PRYOR: Yes, sir.

9 RALPH KISER: I mean, you are speaking of me.

10 MICHAEL S. PRYOR: Yes, sir.

11 BENNY WAMPLER: Sir, if you will come up and...to
12 where we can pick you up.

13 RALPH KISER: All right. I didn't know this was
14 the case...the docket for this here. Excuse me. Would you
15 repeat what you said?

16 MICHAEL S. PRYOR: Starting at what point?

17 RALPH KISER: All...starting from the beginning of
18 whatever it was.

19 MICHAEL S. PRYOR: Okay. It was my understanding
20 that the surveyors were out---.

21 RALPH KISER: Can I have a copy of what you have
22 there?

23 JIM KISER: What do you mean?
24

1 MICHAEL S. PRYOR: The letter that you---.

2 JIM KISER: You want your letter or do you---.

3 RALPH KISER: That letter. Okay. Go ahead. All

4 right. Sorry. Start there. Excuse me.

5 MICHAEL S. PRYOR: I think it was about a year and a

6 half...maybe year and a half...it was about a year and a half

7 ago, where our surveyors were out on Mr. Kiser's family

8 property and they were surveying...trying to locate where

9 they wanted to drill the well and I'm not sure whether you

10 were out there or...anyway you became aware of the fact that

11 they were out there and---.

12 RALPH KISER: Well, why did they come in a trespass

13 without even trying to find out who owned the property?

14 MICHAEL S. PRYOR: Well, the severance deeds...the

15 severance deeds where they...where PMC...in PMC chain of

16 title gave them right to come in there and---.

17 RALPH KISER: Not the surface rights.

18 MICHAEL S. PRYOR: ---it gives them the right to

19 come in and withdraw or obtain or take out the minerals that

20 they own and which would have to be...give them the right to

21 get on the surface.

22 BENNY WAMPLER: Mr. Pryor, is PMC Pocahontas Mining

23 Company?

24

1 CAROL HOCH: Yes, it is.

2 MICHAEL S. PRYOR: Yes, sir. I'm sorry. At that
3 time, I got a letter from Mr. Jeff Kind, who is with Cabot
4 Oil and Gas in Pittsburgh, asking me to go to the courthouse
5 and check out the titles on these tracts to see if Mr. Kiser
6 did in fact own the oil and gas on the property. I did some
7 initial checking. I saw where the minerals had been severed
8 back around 1910, at that time...before Mr. Kiser got the
9 minerals or before he got the surface of the tract.

10 RALPH KISER: Well, do you know that there was 1912
11 litigation over this and a trial?

12 MICHAEL S. PRYOR: No, sir, I'm not aware of that.

13 RALPH KISER: Well, it is there in the courthouse.

14 MICHAEL S. PRYOR: Okay. At that time, I informed
15 Mr. Kind, by my research that it appeared that the minerals
16 had been severed prior to Mr. Kiser...Elbert Kiser buying the
17 property and since that time title opinions have been
18 performed which show...which relay the fact that Pocahontas
19 Mining Company owns the oil and gas under these tracts and
20 that's where it stands right now.

21 RALPH KISER: Excuse me. Do you know that there is
22 about five people that say they own this same tract of
23 property?

24

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1 MICHAEL S. PRYOR: Well, we---.

2 RALPH KISER: And they say they own the mineral
3 rights and all.

4 MICHAEL S. PRYOR: We have title opinions on this
5 and I have not been presented with any title opinion to go
6 against what we have.

7 RALPH KISER: Well, I understand. I mean, I'm just
8 saying the same thing that you...I'm saying the same thing,
9 you know.

10 JIM KISER: Mr. Chairman, I might add that my firm
11 performed the title opinions on these tracts and we are
12 confident that we are correct and that PMC is the mineral
13 owner on these tracts.

14 RALPH KISER: I haven't seen any proof of a
15 conveyance or anything like this. This property has been in
16 my family's name in the property since 1872, my grandfather.
17 It was bought from...Elbert Kiser's father bought the
18 property from my...John Stacy and it stayed in heir to after
19 that. But I haven't seen any signs or any conveyances...it
20 says it is conveyed, but I haven't seen any proof of any of
21 it. I'm not represented here by an attorney or anything like
22 that. I appreciate you all taking my rights and listening to
23 whatever, you know.

24

--

1 BENNY WAMPLER: Sure.

2 MICHAEL S. PRYOR: I can pro...I can pro---.

3 RALPH KISER: I mean, I just want what is right is

4 right and whatever, you know.

5 BENNY WAMPLER: Right.

6 MICHAEL S. PRYOR: I can produce deeds then to Mr.

7 Kiser which Elbert, Mr. Kiser's father, which specifically

8 state that the minerals are reserved and---.

9 JIM KISER: And we can provide him with a copy of

10 our opinion of this.

11 MICHAEL S. PRYOR: And then the title opinion can be

12 provided by Mr. Kiser...or Jim Kiser showing the complete

13 chain of title, how they arrived at. I...again, I have

14 not...I'll be happy to see something if Mr. Ralph Kiser can

15 produce something to dispute what we have, the information

16 that we have. But I couldn't find anything at the courthouse

17 and I don't think---.

18 RALPH KISER: I did receive your fax, you know.

19 BENNY WAMPLER: He is saying that they will provide

20 you with that information, along with the chain of title work

21 that this firm has done, so that you have that available to

22 you.

23 RALPH KISER: How about the suit over the property

24

1 of the mineral rights between Josh White and my father in
2 1917 and ended up in 1920 and they gave the rights and
3 possession of the property to my father.

4 MICHAEL S. PRYOR: The...as I recollect, the Josh
5 White did not own the minerals under this deed...any of these
6 three tracts---.

7 RALPH KISER: This is what...this is the reason it
8 was about was the minerals, not the property. It was about
9 mineral rights.

10 MICHAEL S. PRYOR: It was my understanding and my
11 title research showed that the minerals were severed and sold
12 to...well, prior to that...Josh White did have title to the
13 property, but I believe the minerals were sold to some
14 Peerys. Let's see. I don't have the title opinion with me.
15 I will just have to---.

16 JIM KISER: The severance was prior to the sale.

17 MICHAEL S. PRYOR: Yeah, the severance was prior.
18 Josh White was a predecessor in title to Elbert Kiser, but
19 the minerals were sold to a Thomas M. Writer in 1904 on part
20 of this...there are three different severances, and Thomas
21 Writer bought the minerals on the coal, minerals...minerals
22 and all...coal and all mineral.

23 RALPH KISER: Who did he buy it from?

24

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1 MICHAEL S. PRYOR: He bought on one tract...this is
2 the information that I sent you, he bought it from a J. H.
3 Stinson and E. S. Finey, undivided one-half interest and
4 other one and a half interest under...well, it is called a
5 37.74 acre tract. He bought the other half from Thomas E.
6 Peery. Now, that's the sixty-eight---.

7 RALPH KISER: How did you come up...how did you come
8 up...how did you come up with that acreage? There is
9 supposed to be three tracts, sixty-eight acres, forty acres
10 and ten acres.

11 MICHAEL S. PRYOR: Okay. The sixty----.

12 RALPH KISER: You want to go in on the ten acres
13 where the mineral rights are?

14 MICHAEL S. PRYOR: Well, as...the description on a
15 lot of these tracts, especially in Buchanan County and over
16 there they just kind of...they don't give a metes and bounds,
17 they just give go to this tree, that tree, and that tree and
18 say sixty-eight acres, and the mineral severances really did
19 a metes and bounds description on it and they come up with a
20 thirty-seven point seventy four acre tract. On the sixty
21 acre tract, it is actually thirty-seven point seven four
22 acres.

23 RALPH KISER: Well, regardless of the tree and the
24

1 rock and stone and whatever, Dave Horton went over there,
2 which is from Richlands, he went from the tree and the stone
3 and found the lines of what he said he went on. I know the
4 way of doing it is boundaries and acreage, you know. I am
5 not denying...there is just a lot of---.

6 MICHAEL S. PRYOR: Well, different...acreage
7 discrepancy happen all the time in chains of title...these
8 titles. You can get several different chain---.

9 RALPH KISER: The thing is so ambiguous, the whole
10 thing.

11 MICHAEL S. PRYOR: Yes, it is. You are correct.
12 That's why these...I really feel lucky to have found metes
13 and bounds descriptions on these mineral severances. They
14 really described it well and the plats...you were able to
15 plat the descriptions out and they closed and they were
16 overlaid---.

17 JIM KISER: If I had known Mr. Kiser was coming
18 today, I would have brought the unit and title opinion with
19 me. But I...this was the first time I have seen this letter.

20 BENNY WAMPLER: Mr. Kiser, you are not aware of
21 anyone that...that has not been named here, are you?

22 RALPH KISER: Pardon me now?

23 BENNY WAMPLER: You are not aware of any appropriate
24

1 party that's not been named in this application before the
2 Board, are you?

3 RALPH KISER: No, I'm not. I haven't...the only
4 thing I spoke with Mr. Fulmer on the phone and I spoke with
5 Mr. Pryor on the phone and he faxed me what he has there, and
6 I don't agree with it, but I...I mean, it is up to the Court
7 to decipher because it is so ambiguous that I mean, you just
8 can't tell. I mean, it is theirs and it is right, it is
9 right, I mean, it is theirs. If it is not, then it is mine
10 or if some of these other five people that's claiming
11 it...one of them again is Dave Horton and the Roberts and
12 Simpsons and people like that.

13 MICHAEL S. PRYOR: They...are you saying these five
14 people all claim under your tract.

15 RALPH KISER: They all say that they have the same
16 title deed that we have. Josh White, after the court case in
17 1912, turned around and sold the same property to...after the
18 trial, sold the same property in 1937 to someone else.

19 BENNY WAMPLER: Well, I guess the only---.

20 SANDRA RIGGS: But that would be the surface.

21 BENNY WAMPLER: Yeah, that's surface.

22 MICHAEL S. PRYOR: And that sale was the PMC 8, I
23 think.

24

--

1 BENNY WAMPLER: The surface, I think.
2 CAROL HOCH: Was it?
3 MICHAEL S. PRYOR: I think that's---.
4 JIM KISER: My recollection was the mineral
5 severance was in 1904.
6 MICHAEL S. PRYOR: Well---.
7 RALPH KISER: Say it again. I mean, that property
8 went to drill the well is a very sacred place to my family
9 because this is the home place of my mother and father when
10 they first married and they had four children there and there
11 are graves down there, plus there's piles and piles and piles
12 of rock where they cleared the ground to grow food for the
13 children.
14 (Mr. Wampler and Miss Riggs discuss things among
15 themselves.)
16 RALPH KISER: If Cabot Oil, you know, if they own
17 it...if they think they own it and if I think I own it, if
18 they want to make me an offer, I will talk with them or
19 either I will just have to hire an attorney to go through
20 this thing. The last time that property over there was
21 surveyed was the Belcher Surveying Company in 1929 or maybe
22 '32 and it was done metes and bounds, no trees and no pegs,
23 nothing.

24

--

1 SANDRA RIGGS: Well, the task of this Board is to
2 make sure that anybody who is claiming ownership to the gas
3 has been named within this application and what Mr. Wampler
4 is saying is, are you saying there are claimants to the gas
5 that are not a party to this application?

6 RALPH KISER: I assume there are. They haven't made
7 their claim or to you. The only one I am representing is
8 Elbert Kiser Estate.

9 SANDRA RIGGS: And---.

10 RALPH KISER: The other people they...I spoke to,
11 they say they own it, Cabot Oil says they own it, David
12 Horton says he owns it.

13 SANDRA RIGGS: Now, we are talking about the gas
14 now?

15 RALPH KISER: Yeah, minerals. He said...in fact, he
16 spoke to me in Richlands not long ago that he had the same
17 title and deed...that the same property he owned the ten
18 acres down there with gold...I mean, coal and gas and it came
19 from his father-in-law, Foster Cole, who owned several
20 acreage and mineral rights down there and he is---.

21 MICHAEL S. PRYOR: Well---.

22 RALPH KISER: ---excuse me.

23 MICHAEL S. PRYOR: I'm sorry.

24

--

1 RALPH KISER: That's all right.

2 MICHAEL S. PRYOR: Where Mr. Horton owns, I believe,
3 that is...that his surface tract is over the Rogers Estate,
4 which is a...lease that is owned by---.

5 JIM KISER: (Inaudible).

6 MICHAEL S. PRYOR: Well, that's tract six, right?

7 JIM KISER: Tract Six.

8 MICHAEL S. PRYOR: Tract Six. That's where Mr.
9 Horton's surface tract is...is on...under Tract Six.

10 RALPH KISER: Well, you put out for two wells, A and
11 B---.

12 JIM KISER: A-4 and A-8. We have continued A-8 or
13 we will continue it after this hearing.

14 RALPH KISER: Today?

15 JIM KISER: Yes, sir. We are going continue the
16 hearing for well number PMC A-8.

17 RALPH KISER: Okay. Excuse me.

18 SANDRA RIGGS: So, we are strictly talking about
19 well ...the unit for well A-4 right now is what we are
20 talking about.

21 MICHAEL S. PRYOR: Right.

22 RALPH KISER: Right. A-4. I understand.

23 BENNY WAMPLER: And what we are trying to make sure
24

1 of is that we have all the parties listed here. They are
2 talking that they do. It sounds like, you know, in the
3 discussion that they've got them listed and that's key to us
4 because that's what they are doing is identifying the
5 parties---.

6 RALPH KISER: I understand. I understand.

7 BENNY WAMPLER: ---so that you have options to
8 lease or whatever you decide to do.

9 RALPH KISER: I haven't seen that list.

10 BENNY WAMPLER: Do you have an extra copy?

11 JIM KISER: Sure.

12 BENNY WAMPLER: Would you give him a copy?

13 RALPH KISER: Is this the people that own the
14 mineral rights or surface rights or lessors?

15 JIM KISER: Yes, sir.

16 BENNY WAMPLER: Well---.

17 SANDRA RIGGS: The gas.

18 JIM KISER: The gas.

19 RALPH KISER: And you are saying that Pocahontas
20 Mining Company acquired the mineral rights from who?

21 MICHAEL S. PRYOR: Well, the chain...all I have...we
22 don't have the title opinion with us. But I know that the
23 minerals were severed on those...the three tracts that are
24

1 claimed by your family were severed and sold to Mr. Thomas
2 Writer in 19---.

3 RALPH KISER: Are you talking about ten acres or are
4 you talking about the ninety-eight acres or what?

5 MICHAEL S. PRYOR: I can do either one. The
6 first...we just did the sixty-eight acre tract was sold to
7 Mr. Writer in 1904. I can tell...and the twenty acre and ten
8 acre tract were...I gave you...I sent you the chain of title
9 on that. Okay. Right here. Right. Okay.

10 RALPH KISER: I didn't receive that information that
11 you faxed to me.

12 JIM KISER: Mr. Chairman, I wonder if we should even
13 be getting in to this. The Board doesn't have any
14 jurisdiction over title issues.

15 SANDRA RIGGS: The only issue we are interested in
16 is have all conflicting claimants been named in the
17 application and received notice of the application?

18 JIM KISER: It is our position that yes, they have.
19 All owners of any...all interest owners in the gas estate
20 within the 112.69 acres encompassing this unit have been
21 notified. They have been identified and notified in
22 accordance with Section 19.

23 RALPH KISER: Can I get a copy of this hearing?

24

--

1 BENNY WAMPLER: Yes, sir. A transcript is being
2 made of that. And it is your position that the Elbert Kiser
3 Estate is not a party to be noticed under this, that it in
4 fact is Pocahontas Mining Company? Is that the way I
5 understand it?

6 MICHAEL S. PRYOR: Yes.

7 BENNY WAMPLER: Just so he understands what the
8 position---.

9 RALPH KISER: Do you have a certain length of time
10 that you have to go in a drill or to accomplish what you want
11 to do or you have any time that you want to go in at any
12 time?

13 SANDRA RIGGS: Has the permit issued for this well?

14 CAROL HOCH: No, it hasn't.

15 TOM FULMER: No.

16 SANDRA RIGGS: They haven't applied for a permit
17 yet.

18 TOM FULMER: Oh, yeah. They have applied.
19 (Inaudible).

20 CAROL HOCH: But we have applied, but it hasn't been
21 issued.

22 SANDRA RIGGS: Oh, the application is pending---.

23 TOM FULMER: Right.

24

1 SANDRA RIGGS: ---on the permit. Once that permit
2 issues, it is good for two years. The Board today is acting
3 on a pooling application, which is a process by which people
4 who have not entered into a voluntary agreement with the
5 operator, are given certain elections to make. Once that
6 pooling order is entered, it's also good for two years. If
7 they don't drill the well and commence production within that
8 two year period, then the pooling application dissolves as
9 does the permit and it runs from the date of the issuance of
10 each.

11 RALPH KISER: How about the desecration of the
12 property and damage to the property? I know they have to
13 have...redo what they...top soil or whatever and things like
14 that, but as far as going in and digging a bull dozer and
15 pushing over trees and things like that.

16 SANDRA RIGGS: That's an action that's controlled by
17 the rights of the parties under your various severance deeds
18 and so forth. If you feel you have trespass action, you
19 would pursue that like any other trespass action, or if you
20 had a claim for damages, it would be the same thing. That is
21 not within the jurisdiction of the Board to interpret your
22 deeds. That's a court issue.

23 RALPH KISER: Well, like I say, I haven't been to
24

1 one of these. So, excuse my---.

2 SANDRA RIGGS: Oh, that's all right. That's all
3 right.

4 BENNY WAMPLER: That's fine.

5 RALPH KISER: ---bottom of the barrel attitude.

6 BENNY WAMPLER: That's what we are here for, to try
7 to make sure you understand the process.

8 RALPH KISER: Okay. They say the well that they are
9 speaking of, they...I received the notice of that by a
10 certified a letter from Mr. Pryor, but that was not involving
11 me because that's on the Walter Rife's...the old Peter
12 White's estate, and I understood that you were going to drill
13 a well there and because a house was there and somebody would
14 move in it, you changed it back to me, to my property.
15 Probably to save money to digging...from going from the tops
16 down to where you are going down to the bottom where the well
17 is closer to you. I don't know why, unless the gas just like
18 some people are afraid of it and it can explode if it gets
19 too much oxygen or stuff like that. I don't know.

20 BENNY WAMPLER: Well, you are talking about A-8 now
21 and that's...that's really not before us at this point and
22 time.

23 RALPH KISER: Okay. I'm sorry. Forgive me.
24

1 BENNY WAMPLER: That's okay. We are just dealing
2 with A-4 at the present time, and I understand they plan to
3 continue after this hearing is closed. Thank you.

4 RALPH KISER: Okay. All right. Thank you.

5 BENNY WAMPLER: Go ahead, Mr. Kiser.

6

7 DIRECT EXAMINATION RESUMES

8 QUESTIONS BY MR. KISER:

9 Q. Mr. Pryor, are all the unleased parties set
10 out in revised Exhibit B?

11 A. Yes, they are.

12 Q. In your professional opinion, was due
13 diligence exercised to locate each of the named respondents
14 in revised Exhibit B?

15 A. Yes.

16 Q. Are the addresses set out in revised Exhibit
17 B the last known addresses for the respondents?

18 A. Yes.

19 Q. Are you requesting this Board to force pool
20 all unleased interest listed in revised Exhibit B?

21 A. Yes.

22 Q. And are you familiar with the fair market
23 value of drilling rights in the unit here and in the

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1 surrounding area?

2 A. Yes, I am.

3 Q. Could you advise the Board as to what those
4 are?

5 A. A five dollars (\$5) per acre per initial
6 bonus consideration, one eighth royalty on a five year term.

7 Q. Did you gain this familiarity by acquiring
8 oil and gas leases and other agreements involving the
9 transfer of drilling rights in the unit involved here and in
10 the surrounding area?

11 A. Yes, I have.

12 Q. In your professional opinion, do the terms
13 you have testified to, represent the fair market value and
14 fair and reasonable compensation to be paid for drilling
15 rights within this unit?

16 A. Yes.

17 Q. Now, as to the respondents in revised
18 Exhibit B who remain unleased, do you recommend that they be
19 allowed the following options with respect to their ownership
20 interests within the unit; one, participation; two, a cash
21 bonus of five dollars (\$5) per net mineral acre plus a one-
22 eighth of eight-eighths royalty; three, in lieu of a cash
23 bonus, a one-eighth of eight-eighths royalty share in the

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1 operation of the well on a carried bases as a carried
2 operator under the following conditions: Such carried
3 operator shall be entitled to the share of production from
4 the tracts pooled accruing to his interest exclusive of any
5 royalty or overriding royalty reserved in any leases,
6 assignments thereof or agreements relating thereto of such
7 tracts, but only after the proceeds applicable to his share
8 equal three hundred (300) percent of the share of such costs
9 applicable to the interest of the carried operator of a
10 leased tract or portion thereof; or (B), Two hundred (200)
11 percent of the share of such costs applicable to the interest
12 of the carried operator of an unleased tract or portion
13 thereof?

14 A. Yes.

15 Q. Do you recommend that any order provide that
16 elections by respondents be in writing sent to the applicant
17 at Cabot Oil and Gas Corporation, 400 Fairway Drive, Suite
18 400, (inaudible), Pennsylvania 15108; Attention: Carol Hoch?

19 A. Yes.

20 Q. And should this be the address for all
21 communications with the applicant concerning the force
22 pooling order?

23 A. Yes.

24

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1 Q. Do you recommend that the order provide that
2 if no written elections is properly made by a respondent,
3 then such respondent shall be deemed to have elected the cash
4 royalty option in lieu of participation?

5 A. Yes.

6 Q. Should any unleased respondents be given
7 thirty (30) days from the date of the recording of the Board
8 order to file their written elections?

9 A. Yes, they should.

10 Q. If an unleased respondent elects to
11 participate, should they be given forty-five (45) days to pay
12 the applicant for the respondent's proportionate share of
13 well cost?

14 A. Yes.

15 Q. Does the applicant expect the party electing
16 to participate to pay in advance that parties share of
17 completed well costs?

18 A. Yes.

19 Q. Should the applicant be allowed a hundred
20 and twenty (120) days following the recording date of the
21 Board order, and thereafter, annually on that date, until
22 production is achieved to pay or tender any cash bonus
23 becoming due under the order?

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1 A. Yes.

2 Q. Do you recommend that the order provide that
3 if the respondent elects to participate, but fails to pay
4 their proportionate share of well costs satisfactory to the
5 applicant for payment of such costs, then their election to
6 participant should be treated as having been withdrawn and
7 void?

8 A. Yes, I do.

9 Q. Do you recommend that if a respondent elects
10 to participate, but defaults in regard to the payment of well
11 costs, any cash sum becoming payable to such respondent be
12 paid within sixty (60) days after the last date on which such
13 respondent could have paid or made satisfactory arrangements
14 for the payment of well costs?

15 A. Yes, I do.

16 Q. We do not have any unknown or unlocateable
17 parties within this unit, is that correct?

18 A. That's correct.

19 Q. Therefore, we don't need to establish an
20 escrow account, is that correct?

21 A. Yes.

22 Q. And who should be named the operator under
23 the force pooling order?

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1 A. Cabot Oil and Gas Corporation.

2 JIM KISER: Nothing further of this witness at this
3 time, Mr. Chairman.

4 BENNY WAMPLER: Any questions from members of the
5 Board of this witness?

6 (No audible response.)

7 BENNY WAMPLER: Call your next witness.

8 JIM KISER: Yes, my next witness is Mr. Ott. You
9 have a copy of his resume in front you.

10

11 THOMAS C. OTT

12 having been duly sworn, was examined and testified as
13 follows:

14 QUESTIONS BY MR. KISER:

15 Q. Mr. Ott, could state your name for the
16 Board, who you are employed by and in what capacity?

17 A. My name is Thomas C. Ott. I'm work for
18 Cabot Oil and Gas as a District Engineer.

19 Q. And since this is your first time, I
20 believe, testifying before the Virginia Gas and Oil Board,
21 could you please take some time and go through both your
22 education and work experience in the oil and gas industry?

23 A. I graduated from Penn State University in
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1 1971. I went to work for Gulf Oil at that time. I worked
2 there for about four years in an engineering capacity. Then
3 I went to work for Columbia Gas Transmission Corporation in
4 1975. I worked there for five years in engineering duties.
5 I had a brief span with Superior Oil Company in Woodlands,
6 Texas and then from there in 1981, I came to work for
7 Cabot...or...yeah, Cabot in a different engineering
8 capacities.

9 Q. And does part of your current duties with
10 Cabot Oil and Gas include preparation of drilling AFEs,
11 reserve analysis, economic analysis for a Berea well such as
12 this---?

13 A. Yes.

14 Q. ---in the Virginia area of the Appalachian
15 basis?

16 A. Yes.

17 JIM KISER: Mr. Chairman and members of the Board,
18 I'd submit Mr. Ott as an expert witness in this areas of
19 production and operations.

20 BENNY WAMPLER: Without objection, he is accepted.

21 Q. And do your responsibilities include the
22 land involved in this unit and in the surrounding area?

23 A. Yes, sir. Yes.

24

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1 Q. And are you familiar with the plan
2 of...proposed plan of development for this well?
3 A. Yes.
4 Q. And what is the total depth of the proposed
5 well under this plan of development?
6 A. Five thousand five hundred and twenty-five
7 (5,525) feet.
8 Q. And will this be sufficient to penetrate and
9 test the common sources as supplied in the subject
10 formations?
11 A. Yes.
12 Q. And is Cabot requesting the force pooling of
13 conventional gas reserves not only to include the designated
14 formations, but any other formations excluding coal
15 formations which may be between those formations designated
16 from the surface to the total depth drilled?
17 A. Yes.
18 Q. What are the estimated reserves underlying
19 this unit?
20 A. Five hundred million (500,000,000) cubic or
21 standard cubic feet of gas.
22 Q. And are you familiar with the well costs for
23 the proposed well under the applicant's plan of development?
24

1 A. Yes.

2 Q. Has an AFE been reviewed, signed and
3 submitted to the Board?

4 A. Yes.

5 Q. And was this AFE prepared by an engineering
6 department knowledgeable in the preparation of AFEs and
7 knowledgeable in regard to well costs in this particular
8 area?

9 A. Yes, it was.

10 Q. In your professional opinion, does the AFE
11 represent a reasonable estimate of the costs for the proposed
12 well under the plan of development?

13 A. Yes, it does.

14 Q. At this time, could you state for the Board
15 both the dry hole costs and completed well costs for PMC A-4?

16 A. The dry hole costs are hundred and fifty-two
17 thousand four hundred dollars (\$152,400) and completed well
18 costs is two hundred forty-three thousand dollars (\$243,000).

19 Q. Now, on these particular well, you do not
20 anticipate a multiple completion, is that correct?

21 A. That's correct.

22 Q. Does the AFE include a reasonable charge for
23 supervision?

24

1 A. Yes.

2 Q. Now, Mr. Ott, in your professional opinion,
3 will the granting of this application be in the best interest
4 of conservation, the prevention of waste and the protection
5 of correlative rights?

6 A. Yes.

7 JIM KISER: Nothing further of this witness at this
8 time, Mr. Chairman.

9 BENNY WAMPLER: Any questions from members of the
10 Board?

11 (No audible response.)

12 BENNY WAMPLER: Do you have anything further?

13 JIM KISER: Mr. Chairman, we'd ask that the
14 application be approved as submitted.

15 BENNY WAMPLER: Let me go back and ask you one
16 question before we get there and you decide who needs to
17 respond to this. But Don Johnson's letter dated September
18 2nd, representing Fawn Rogers, II, Trustee and Lon B. Rogers,
19 Rogers Bradshaw Trust Number One, object to the proposed
20 pooling applications because a client is informed that the
21 units lie within the area assigned by the Gas and Oil Board
22 to be covered and governed by the Pilgrims Knob Field Rules.

23 JIM KISER: We have determined, and I think along
24

1 with Mr. Fulmer, have determined that he is correct and that
2 the unit for PMC AA-8 does lie within the field rules area.
3 I think, there is maybe a technical argument that it doesn't.
4 But we are not going to make that. A-4 is definitely
5 outside the boundaries for the field rules and that's why we
6 are here today on that one. A-8 will be continued subsequent
7 to this hearing, probably until the November hearing, because
8 the October deadline is this Friday and we are still having
9 the...as you know, the Pilgrims Knob field rules require a
10 hundred and eighty acre squares and we are having that unit
11 resurveyed at this point in time.

12 BENNY WAMPLER: Okay. All right. Anything further?

13 (No audible response.)

14 BENNY WAMPLER: Do I have a motion?

15 RICHARD GILLIAM: I make a motion that we approve.

16 BENNY WAMPLER: Motion to approve.

17 BILL HARRIS: I second.

18 BENNY WAMPLER: Any further discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor signify by saying yes.

21 (All members indicate in the affirmative.)

22 BENNY WAMPLER: Opposed say no.

23 (No audible response.)

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1 BENNY WAMPLER: You have approval. The next item on
2 the agenda is a petition from Cabot Oil and Gas for a
3 conventional gas unit identified as PM C A-8, docket number
4 GOB-09-09/15-0687. We'd ask the parties that wish to address
5 the Board in this matter to come forward at this time.

6 JIM KISER: Mr. Chairman, Jim Kiser on behalf of
7 Cabot Oil and Gas Corporation. We'd ask the Board at this
8 time for reasons previously stated that this matter be
9 continued to the October docket, I guess, at this point, in
10 case we can get that plat and get it filed by Friday. And
11 then if we don't, what I can do is notify yourself or Miss
12 Riggs on Friday, if we need to carry it over to the November
13 docket.

14 BENNY WAMPLER: Well, we will grant a continuance
15 till the next docket you can get it on. Okay?

16 JIM KISER: Okay.

17 BENNY WAMPLER: You won't have to do that.

18 JIM KISER: Thank you.

19 BENNY WAMPLER: Okay. Thank you very much. That
20 concludes today's hearing.

21 STATE OF VIRGINIA,

22 COUNTY OF BUCHANAN, to-wit:

23 I, SONYA MICHELLE BROWN, Court Reporter and Notary

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1 Public for the State of Virginia, do hereby certify that the
2 foregoing hearing was recorded by me on a tape recording
3 machine and later transcribed by me personally.

4 Given under my hand and seal on this the 6h day
5 of October, 1998.

6 NOTARY PUBLIC

7 My commission expires August 31, 2001.